CONTRACT

BETWEEN

SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

AND

MHN Provider

FOR THE PURCHASE AND PROVISION OF

MEDICAL HOMES NETWORK SERVICES

UNDER THE SOUTH CAROLINA MEDICAID PROGRAM

DATED AS OF

April 1, 2010

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CONTRACT BETWEEN SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES AND MHN Provider FOR THE PURCHASE AND PROVISION OF MEDICAL HOMES NETWORK SERVICES UNDER THE SOUTH CAROLINA MEDICAID PROGRAM DATED AS OF APRIL 1, 2010.

This Contract is entered into as of the first day of April 2010, by and between the South Carolina Department of Health and Human Services, Post Office Box 8206, and 1801 Main Street, Columbia, South Carolina, 29202-8206, hereinafter referred to as "SCDHHS" and MHN Provider (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, SCDHHS is the single state agency responsible for the administration of the South Carolina State Plan for Medical Assistance under Title XIX of the Social Security Act and makes all final decisions and determinations regarding the administration of the Medicaid Program.

WHEREAS, the United States Department of Health and Human Services has allocated funds under Title XIX of the Social Security Act to SCDHHS for the Medical Homes Network Services.

WHEREAS, the Contractor represents and warrants that it meets applicable standards as a Contractor of Medical Homes Networks Services as specified by Title XIX of the Social Security Act, federal regulations promulgated pursuant thereto, and the South Carolina State Plan for Medical Assistance.

WHEREAS, the Contractor desires to participate in the provision of Medical Homes Networks Services under Title XIX of the Social Security Act.

NOW, THEREFORE, the parties to this contract, in consideration of the mutual promises, covenants, and stipulations set forth herein, agree as follows:

1 GENERAL PROVISIONS

1.1 Effective Date and Term

This Contract and its appendices, hereby incorporated, contain all of the terms and conditions agreed upon by the parties. All terms and conditions stated herein are subject to prior approval by Centers for Medicare and Medicaid Services (CMS). To ensure the availability of Federal Financial Participation (FFP) for the entire contract period, this Contract must be submitted to CMS for prior approval at least forty-five (45) calendar days in advance of the proposed effective date. This Contract shall be effective no earlier than the date it has been approved by CMS, and signed by the Contractor and SCDHHS, and shall continue in full force and effect from April 1, 2010 until March 31, 2011 unless terminated prior to that date by provisions of this Contract. The documents referenced in this Contract are on file with the Contractor and with SCDHHS, and the Contractor is aware of their content.

1.2 Notices

Whenever notice of contract termination or amendment is required to be given to the other party, it shall be made in writing and delivered to that party. Delivery shall be deemed to have occurred if made in person and a signed receipt is obtained or three (3) calendar days have elapsed after posting if sent by registered or certified mail, return receipt requested. Notices shall be addressed as follows:

In case of notice to Contractor:

MHN Provider
Address

In case of notice to SCDHHS:

South Carolina Department of Health and Human Services
Office of the Director
1801 Main Street
Post Office Box 8206
Columbia, South Carolina 29202-8206

cc: Director, Bureau of Care Management and Medical Support Services
Director, Bureau of Administrative Services

Said notices shall become effective on the date specified within the notice. Either party may change its address for notification purposes by mailing a notice stating the change, effective date of change and setting forth the new address. If different representatives are designated after execution of this Contract, notice of the new representative will be rendered in writing to the other party and attached to originals of this Contract.

1.3 Definitions

The terms used in this Contract shall be construed and/or interpreted in accordance with the definitions set forth in **Appendix A – Definitions and Acronyms**, unless the context in which a term(s) is used expressly provides otherwise.

1.4 Entire Agreement

The Contractor shall comply with all the provisions of the Contract, including amendments and appendices, and shall act in good faith in the performance of the provisions of said Contract. The Contractor shall be bound by Medicaid policy as stated in applicable provider manuals and in the Medical Homes Network Policy and Procedure Guide. The Contractor agrees that failure to comply with the provisions of this Contract may result in the assessment of liquidated damages, sanctions and/or termination of the Contract in whole or in part, as set forth in this Contract. The Contractor shall comply with all applicable SCDHHS policies and procedures in effect throughout the duration of this Contract period. The Contractor shall comply with all SCDHHS handbooks, bulletins and manuals relating to the provision of services under this Contract. Where the provisions of the Contract differ from the requirements set forth in the handbooks and/or manuals, then the Contract provisions shall control.

SCDHHS, at its discretion, will issue Medicaid bulletins to inform the Contractor of changes in policies and procedures which may affect this Contract. The SCDHHS is the only party to this Contract which may issue Medicaid bulletins.

1.5 Federal Approval of Contract

The CMS Regional Office shall review and approve all MHN contracts, including those risk and non-risk contracts that, on the basis of their value, are not subject to the prior approval requirements in 42 CFR §438.806. The CMS has final authority to approve this Contract between SCDHHS and the Contractor in which payment hereunder shall exceed one hundred thousand dollars ($100,000.00). If CMS does not approve this Contract entered into under the Terms & Conditions described herein, the Contract will be considered null and void.

1.6 Extension & Renegotiation

This Contract may be extended for a period which may be less than but not exceed one (1) year beyond the initial contract term whenever either of the parties hereto provide the other party with ninety (90) calendar days advance notice of intent to extend and written agreement to extend the Contract is obtained from both parties. Any rate adjustment(s) shall be set

forth in writing and signed by both parties. Either party may decline to extend this Contract for any reason. The parties expressly agree there is no property right in this Contract. This contract may be renegotiated for good cause, only at the end of the contract period, and for modification(s) during the contract period, if circumstances warrant, at the discretion of the State.

1.7 Amendments

This Contract may be amended at anytime as provided in this paragraph. This Contract may be amended whenever required to comply with state and federal requirements. No modification or change of any provision of the Contract shall be made or construed to have been made unless such modification is mutually agreed to in writing by the Contractor and SCDHHS, and incorporated as a written amendment to this Contract prior to the effective date of such modification or change. Any amendment to this Contract shall require prior approval by SCDHHS, CMS, and the CMS Regional Office prior to its implementation.

1.8 Medically Complex Children's Waiver Program

This Contract contains provisions which apply to the Medically Complex Children's Waiver Program. Should the Contractor participate in the Medically Complex Children's Program, the provision of services is mandated in section 4.1.15 of this Contract and the **MHN Policy and Procedure Guide**. Also, all references to marketing and cost savings in this Contract shall not apply to the Medically Complex Children's Waiver Program. The **MHN Policy and Procedure Guide** shall describe more fully which sections of this Contract are applicable to the Medically Complex Children's Waiver Program. All references to the phrase "case management" in this contract shall not apply to the Medically Complex Children's Waiver Program. The phrase, "Enhanced Primary Case Management for the chronic disability, chronic health condition or chronic illness" shall be used to more accurately define the expanded services component of the Medically Complex Children's Waiver Program. The enhanced rate for this program can be found in Appendix D of this Contract.

2 FINANCIAL AND PLAN MANAGEMENT

The Contractor shall be responsible for sound fiscal management of the health care plan developed under this Contract. The Contractor shall adhere to the minimum guidelines outlined below.

2.1 Per Member Per Month Care Coordination Payments

The Contractor agrees to accept the prospective Per Member Per Month (PMPM) Care Coordination payments remitted by SCDHHS to the Contractor as payment in full for all services provided to Medicaid MHN Program members pursuant to this Contract. The PMPM payment is equal to the monthly number of members multiplied by the established

rate. This does not preclude SCDHHS from offering the contractor financial incentives as described in Appendix B of this Contract.

2.1.1 SCDHHS reserves the right to defer remittance of the capitation payment for July until the first MMIS payment cycle in July to comply with state fiscal policies and procedures.

2.2 Co-payments

No copayments shall be charged to any Medicaid MHN Program member (adult or child) for any service or product covered under the Medicaid program.

2.3 Return of Funds

The Contractor agrees that all amounts identified as being owed to SCDHHS are due immediately upon notification to the Contractor by SCDHHS unless otherwise authorized in writing by SCDHHS. SCDHHS, at its discretion, reserves the right to collect amounts due by withholding future PMPM payments. SCDHHS reserves the right to collect interest on unpaid balances beginning thirty (30) calendar days from the date of initial notification. The rate of interest charged will be the same as that fixed by the Secretary of the United States Treasury as provided for in 31 USC § 3717 This rate may be revised quarterly by the Secretary of the Treasury and shall be published by the US Department of Health and Human Services (USHHS) in the Federal Register.

In addition, the Contractor shall reimburse SCDHHS for any federal disallowances or sanctions imposed on SCDHHS as a result of the Contractor's failure to abide by the terms of the Contract. The Contractor will be subject to any additional conditions or restrictions placed on SCDHHS by the USHHS as a result of the disallowance. Payments of funds being returned to SCDHHS shall be submitted to:

South Carolina Department of Health and Human Services
Department of Receivables
Post Office Box 8355
Columbia, South Carolina 29202-8355

2.4 Training

The Contractor shall be responsible for training all of its employees and network providers, and subcontractors to ensure that they adhere to the Medicaid MHN Program policies and procedures and Medicaid regulations. The Contractor shall be responsible for conducting ongoing training on Medicaid MHN Program policies and distribution of updates for its network providers/subcontractors. SCDHHS reserves the right to attend any and all training programs and seminars conducted by the Contractor. The Contractor shall provide SCDHHS a list of the training dates, times and locations, at least thirty (30) calendar days prior to the actual dates of training.

2.5 Liaisons

The Contractor shall designate an employee of its' administrative staff to act as liaison between the Contractor and SCDHHS for the duration of the Contract. SCDHHS's Department of Managed Care will be the Contractor's point of contact and shall receive all inquiries regarding this Contract and all required reports unless otherwise specified in this Contract. The Contractor shall also designate a member of its senior management who shall act as a liaison between the Contractor's senior management and SCDHHS when such communication is required.

If different representatives are designated after execution of this Contract, notice of the new representatives shall be rendered in writing to the other party within thirty (30) days of the designation.

2.6 Material Changes

The Contractor shall notify SCDHHS immediately of all material changes affecting the delivery of care or the administration of its health care plan under this Contract. Material changes include, but are not limited to, changes in: composition of the Contractor's provider network or subcontractor network; Contractor's complaint and grievance procedures; health care delivery systems or services, expanded services, benefits, geographic service area or payments; enrollment of a new population; procedures for obtaining access to or approval for health care services; and the Contractor's ability to meet enrollment levels. All changes must be approved in writing by SCDHHS. The Contractor must provide Medicaid MHN Program members with a copy of all approved changes at least thirty (30) days prior to the intended effective date of the changes as required by S.C. Code Ann §38-33-30(c)(Supp. 2000, as amended). SCDHHS shall make the final determination as to whether a change is material.

The Contractor shall be responsible for all costs associated with any changes the Contractor makes during the term of this Contract or during Contract termination. Costs associated with any changes may include, but are not limited to, costs incurred for name changes, for changes to the enhanced benefit file, for transitioning members from one provider to another during a transition or termination process, and costs incurred by the enrollment broker in updating its system and website to incorporate the changes.

2.7 Incentive Plans

The Contractor's incentive plans or its network providers/subcontractors shall be in compliance with 42 CFR Part 434 (2009, as amended), 42 CFR §417.479 (2008, as amended), 42 CFR §422.208 (2008, as amended) and 42 CFR §422.210 (see the **MHN Policy and Procedure Guide**). The Contractor shall submit any information regarding incentives as may be required by SCDHHS.

2.8 Notification of Legal Action

The Contractor shall give SCDHHS immediate notification in writing by certified mail of any administrative legal action or complaint filed and prompt notice of any claim made against the Contractor by a subcontractor or member which may result in litigation related in any way to this Contract with SCDHHS.

2.9 Fraud and Abuse Compliance/Program Integrity Plan

The Contractor must have administrative and management arrangements or procedures, including a mandatory compliance plan, that are designed to guard against fraud and abuse. These arrangements and procedures must include the following:

2.9.1 Written policies, procedures, and standards of conduct that articulate the Contractor's commitment to comply with all applicable Federal and State standards and regulations.

2.9.2 The designation of a compliance officer and a compliance committee that is accountable to senior management.

2.9.3 Effective training and education for the compliance officer and the organization's employees.

2.9.4 Effective lines of communication between the compliance officer and the Contractor's employees, sub-contractors, and providers.

2.9.5 Enforcement of standards through well-publicized disciplinary guidelines.

2.9.6 Provisions for internal monitoring and auditing.

2.9.7 Provisions for prompt response to detected offenses, and for development of corrective action initiatives relating to this Contract.

These policies along with the designation of the compliance officer and committee must be submitted to SCDHHS for approval upon initiation of this contract and then whenever changes occur.

The MHN must immediately report to SCDHHS any suspicion or knowledge of fraud and abuse including, but not limited to, the false or fraudulent filings of claims and the acceptance or failure to return monies allowed or paid on claims known to be fraudulent. See the **MHN Policy and Procedure Guide** for additional guidance.

2.10 Cost Report

The Contractor is required to submit an original and one copy of an actual cost report to include actual cost and service delivery information. DHHS Form 137 must be completed and mailed to SCDHHS within ninety (90) days after the contract expires or within ninety (90) days after the end of the Contractor's fiscal year if the contract is written for a period greater than one year. The cost report shall be mailed to:

Division of Ancillary Reimbursements
South Carolina Department of Health and Human Services
Post Office Box 8206
Columbia, South Carolina 29202-8206.

2.11 Ownership

The Contractor shall provide SCDHHS with full and complete information on the identity of each person or corporation with an ownership of controlling interest (5%+) in the plan, or any subcontractor in which the Contactor has a 5% or more ownership interest. This information shall be provided to SCDHHS on the approved Disclosure Form and updated whenever changes in ownership occur.

2.12 Excluded Parties

The Contractor shall check the Excluded Parties List Service administered by the General Services Administration, when it enrolls any provider or subcontractor, to ensure that it does not employ individuals who are debarred, suspended, or otherwise excluded from participating in Federal procurement activities and/or have an employment, consulting, or other agreement with debarred individuals for the provision of items and services that are significant to the MHN's contractual obligation. The Contractor shall also report to SCDHHS any network providers or subcontractors that have been debarred, suspended, and/or excluded from participation in Medicaid, Medicare, or any other federal program.

3 SCDHHS CONTRACT MANAGEMENT RESPONSIBILITIES

For and in consideration of the promises herein made by the Contractor, SCDHHS agrees to the following:

3.1 SCDHHS will provide the Contractor with a monthly list of members for the purpose of managing their health care needs.

3.2 SCDHHS will provide training and technical assistance regarding the Medical Homes program, as necessary.

3.3 SCDHHS will provide the **MHN Policy and Procedure Guide**.

3.4 SCDHHS will provide the MHN with the **Medical Homes Medicaid Managed Care Beneficiary Handbook**, in both English and Spanish that contains program information including member rights and protections, program advantages, member responsibilities, and complaint and grievance instructions for distribution to all members and potential members.

3.5 SCDHHS will notify members in writing of any significant change in the Medical Homes Program.

3.6 SCDHHS will make a good faith effort to notify members in writing of the termination of a Contractor within thirty (30) days after receipt or issuance of the termination notice.

3.7 SCDHHS will assign each MHN a unique identifier. The current practice and/or Provider number assigned to member practices/physicians shall serve as the unique identifier for the member practices.

3.8 SCDHHS will work with the Contractor to determine information necessary to manage members' care and provide information that is feasible.

3.9 SCDHHS will establish outcome measures. See the **MHN Policy and Procedure Guide** for additional guidance.

4 SCOPE OF SERVICES

The Contractor shall possess the expertise and resources to ensure the delivery of quality health care services to Medicaid MHN Program members in accordance with the Medicaid program standards and the prevailing medical community standards. The Contractor shall adopt practice guidelines that:

- Are based on valid and reliable clinical evidence or a consensus of health care professionals in the particular field
- Consider the needs of the members.
- Are adopted in consultation with contracting health care professionals.
- Are reviewed and updated periodically as appropriate.

The Contractor shall disseminate the guidelines to all affected providers and, upon request, to members and potential members. Decisions for utilization management, member education, coverage of services and other areas to which guidelines apply must be consistent with the guidelines.

The Contractor's approved application is incorporated herein by reference as if stated fully herein. Any changes to approved protocols and cost-sharing methodology must be approved by SCDHHS. The Contractor must comply with all the terms and conditions contained in the Medical Homes Network Standards, which are set forth in the **MHN Policy and Procedure Guide.**

4.1 Components and Core Services of the South Carolina Medicaid MHN Program

The Contractor shall be responsible for the following components and core services:

4.1.1 Best practices.

4.1.2 Quality of care.

4.1.3 Cost analysis of MHN expenditures to the Medicaid Program.

4.1.4 Utilization of data management to improve healthcare for MHN members and for the State.

4.1.5 Formal care coordination and case management.

4.1.6 Member education.

4.1.7 Disease management.

4.1.8 Provider Education and Training on evidence-based medicine and Best Practice Protocols.

4.1.9 Provider education and training on use of care coordination/case Management, prior authorization procedures, enrollment, disenrollment, etc. with member practices and MHN referral partners.

4.1.10 Pharmacy Management to include Clinical Risk Identification.

4.1.11 Exception and performance tracking and reporting.

4.1.12 Outcomes measurement and data feedback.

4.1.13 Distribution of any Per Member Per Month care coordination fee to the participating physicians using an incentive-based formula.

4.1.14 Distribution of any cost savings.

4.1.15 If applicable, the provision of services for the Medically Complex Children's Waiver Program, as set forth in the **MHN Policy and Procedure Guide.**

4.2 Required Functions

The Contractor agrees to perform the following functions:

4.2.1 Recruit, screen and approve individual and group physician practices for participation. Screening will include, but not be limited to, verifying, prior to approval, that practices have not been excluded from participating in Medicaid, Medicare, and/or SCHIP. Federal Financial Participation (FFP) is not available for reimbursement to providers excluded by Medicare, Medicaid or SCHIP except for emergency services.

4.2.2 Assure that participating practices meet the participation criteria and perform the duties specified below and in the **MHN Policy and Procedure Guide**:

4.2.2.1 Provide primary care and patient care coordination services to each member.

4.2.2.2 Provide or arrange for Primary Care coverage for services, consultation or referral, and treatment for emergency medical conditions, twenty-four (24) hours per day, seven (7) days per week.

4.2.2.3 Provide prompt (within one hour) access to a qualified medical practitioner who is able to provide medical advice, consultation, and authorization for service when appropriate. Primary Care Providers (PCPs) must have at least one telephone line that is answered by office staff during regular office hours. (Use of an automated system to answer the phone is acceptable as long as patients are able to access a live person through one of the automated options.)

4.2.2.4 Provide members with an after-hours telephone number. The after-hours number may be the PCP's home telephone number, an answering service, etc. The after-hours telephone number must be listed in the member's handbook.

4.2.2.5 Provide preventive services as defined by the Contractor.

4.2.2.6 Offer general patient education services to all members and potential members as well as disease management services to members for whom the services are appropriate.

4.2.2.7 Establish and maintain hospital admitting privileges or enter into an arrangement with another physician or group practice for the management of inpatient hospital admissions of MHN members.

4.2.2.8 Assist the member by providing systematic, coordinated care and be responsible for all referrals to other health care providers for additional medically necessary care to ensure that services under the contract can be furnished to enrollees promptly and without compromise to the quality of care.

4.2.2.9 Follow the recommended Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) screening and immunization schedules, as required by the Centers for Medicare and Medicaid Services (CMS), Centers for Disease Control (CDC) and the American Academy of Pediatrics (AAP).

4.2.3 Manage of the medical and health care needs of members to assure that all medically necessary services are made available in a timely and cost efficient/effective manner.

4.2.4 Establish care coordination services for members of the **Medical Homes** Program.

4.2.5 Establish a plan to ensure regular evening and weekend hours to accommodate the needs of the members.

4.2.6 Determine the priorities for disease management, patient education and care coordination and ensure these management services are provided. Patient education topics shall include, but not be limited to, child development, childhood diseases, diabetes, high blood pressure, and other chronic diseases.

4.2.7 Ensure enrollees receive all information regarding their membership in the MHN within a reasonable time after the Contractor received notice of enrollment.

4.2.8 Ensure all materials designed for members' use are in easily understood language and formats. Ensure that members receive notification that information is available in alternative formats and how to access them. Written material must be available in alternative formats and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency.

4.2.9 Ensure interpretive services related to health care issues are provided, as needed, to the members. Make oral interpretation services available free of charge to each potential member and existing member. This applies to all non-English languages. Ensure members receive notification of the availability of these services and how to access them.

4.2.10 Conduct Marketing activities in accordance with §7 of this Contract and the **MHN Policy and Procedure Guide**.

4.2.11 Ensure the enrollment and disenrollment of beneficiaries is conducted in accordance with §6 of this Contract and the **MHN Policy and Procedure Guide**.

4.2.12 Work with SCDHHS to establish outcome measures.

4.2.13 Agree to external quality evaluation, review of quality assessment and performance improvement (QAPI) meeting minutes and annual medical audits by SCDHHS' External Quality Review Organization (EQRO) in accordance with standards contained in the MHN Policy and Procedure Guide.

4.2.14 Demonstrate budget neutrality or costs savings for services to plan members.

4.2.15 Implement and operate an Information Technology System that meets the SCDHHS Information Technology standards for MHN programs.

4.2.16 Insure individually identifiable health information be protected in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

4.2.17 The Contractor shall provide each member and potential enrollee with clear, accurate and truthful information (oral and written) about the Contractor's health plan to ensure that the potential enrollee received the information necessary to make an informed decision on enrollment and to ensure compliance with this Contract and with state and federal laws and regulations. The Contractor shall be responsible for developing and distributing its own member specific marketing, and educational materials. The Contractor shall not cause or knowingly permit the use of advertising, which is untrue, misleading or deceptive. The information must include a statement that enrollment in the Contractor's Plan by a Medicaid applicant/eligible shall be voluntary. The Contractor shall inform the members that enrollment shall be for a period of twelve (12) months contingent upon their continued Medicaid eligibility and that the member may request disenrollment without cause once during the 90 days following the date of the member's initial enrollment with the MHN.

4.2.19 All written material shall be written at a grade level no higher than the fourth (4th) grade, or as determined appropriate by SCDHHS. The Contractor shall ensure that where ten percent (10%) of the resident population of a county is non-English speaking and speaks a specific foreign language, materials shall be made available in that specific language to assure a reasonable chance for all potential members to make an informed choice of managed care plans. All beneficiary-related materials must be made available in Spanish and must be certified by a translation service.

4.3 Emergency Medical Services

The Contractor shall insure that emergency and post-stabilization services be rendered without the requirement of prior authorization of any kind; and shall advise all Medicaid MHN Program members of the provisions governing the use of emergency services. The Contractor shall not limit what constitutes an emergency medical condition on the basis of lists of diagnoses or symptoms. The Contractor shall submit for prior approval by SCDHHS, a copy of its written emergency services definitions and any protocols.

4.4 Medical Services for Special Populations

The Contractor shall implement mechanisms to assess each member identified by the State and identified to the Contractor by the State as having special health care needs in order to identify any ongoing special condition of the member that requires a course of treatment or regular care monitoring. The assessment mechanism must use appropriate health care professionals. The Contractor must have a mechanism in place to allow members to directly access a specialist as appropriate for the member's condition and identified needs (for example, through the standard referral or an approved number of visits).

The Contractor shall determine the need for any enhanced services that may be necessary for these populations to maintain their health and well being. The **MHN Policy and Procedure Guide** outlines the best practices and procedures that the SC State Plan for Medical Assistance uses to serve the designated special populations.

Children with chronic/complex health care needs and all infants of high-risk mothers are defined as special populations in the SC State Plan for Medical Assistance. The special populations are identified as individuals that may require additional health care services that should be incorporated into a health management plan which guarantees that the most appropriate level of care is provided for these individuals

4.5 Care Coordination

The Contractor shall ensure that each member has an ongoing source of primary care appropriate to his or her needs and a person or entity formally designated as primarily responsible for coordinating the health care services furnished to the member. The Contractor shall be responsible for the planning, directing and coordinating of health care needs and services for Medicaid MHN Program members in conjunction with the Primacy Care Physician through care coordination, increased accessibility of services and promoting prevention. The Contractor's care coordination and referral activities should incorporate and identify appropriate methods of assessment and referral for Members. These activities must include assessment, scheduling assistance, monitoring and follow-up for its MHN member(s) needing or requiring both medical and behavioral health services.

4.5.1 Continuity of Care

The Contractor shall develop and maintain effective continuity of care activities which seek to ensure a continuum approach to treating and providing health care services to Medicaid MHN Program members. In addition to ensuring appropriate referrals, monitoring, and follow-up to providers within the network, the Contractor shall ensure appropriate linkage and interaction with providers. The Contractor's continuity of care activities should seek to provide processes by which Medicaid MHN Program members and provider interactions can effectively occur and identify and address problems when those interactions are not effective or do not occur.

In order to provide a continuum approach to managing the needs of the member, the Contractor shall provide effective continuity of care activities that seek to ensure that the appropriate personnel, including the primary care provider, are kept informed of the member's treatment needs, changes, progress or problems. The Contractor shall ensure that service delivery is properly monitored to identify and overcome barriers to primary and preventive care that the Medicaid MHN Program member may encounter.

The Contractor shall honor any prior authorization for ongoing covered Medicaid services to a Medicaid MHN Program member until the Contractor's primary care provider assigned to that member reviews the member's treatment plan.

4.5.2 School-Based Services

School-based services are those Medicaid services provided in school districts to Medicaid eligible children under the age of 21. The Contractor shall at a minimum have written procedures for promptly transferring medical and developmental data needed for coordinating ongoing care with school-based services.

4.5.3 Women, Infant, and Children (WIC) Program Referral

The Contractor shall be responsible for ensuring that coordination exists between the WIC Program and network providers. Coordination shall include referral of potentially eligible women, infants and children and reporting of appropriate medical information to the WIC Program. The South Carolina Department of Health & Environmental Control (DHEC) administers the WIC Program. A sample referral/release of information form is found in the **MHN Policy and Procedure Guide,** WIC Referral Form.

4.6 Family Planning and Communicable Disease Services

4.6.1 Family Planning Services

Family planning services are available to help prevent unintended or unplanned pregnancies. Family planning services include examinations, assessments, and traditional contraceptive devices. The Contractor should agree to make available all family planning services to Medicaid MHN Program members as specified in the **MHN Policy and Procedure Guide.** Medicaid MHN Program members shall have the freedom to receive family planning services outside the Contractor's provider network by appropriate Medicaid providers without any restrictions. Medicaid MHN Program members should be encouraged by the Contractor to receive family planning services through the Contractor's network of providers to ensure continuity and coordination of a member's total care.

4.6.2 Communicable Disease Services

Communicable disease services are available to help control and prevent diseases such as tuberculosis (TB), sexually transmitted diseases (STD), and Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) infection. The Contractor shall make available communicable disease services to Medicaid MHN Program members as specified in the **MHN Policy and Procedure Guide.** Medicaid MHN Program members shall have the freedom to receive TB, STD, and HIV/AIDS services outside the Contractor's provider network by the state public health agency without any restrictions.

4.6.2.1 Prompt Reporting of South Carolina Reportable Diseases, and Access to Clinical Records of Patients with Reportable Diseases

The Contractor or its network providers shall comply with S.C. Code Ann. Sections 44-1-80 through 44-1-140 and Sections 44-29-10 through 44-29-90 by reporting all cases of TB, STD and HIV/AIDS infection to the state public health agency within 24 (twenty-four) hours of notification by provider or from date of service. Refer to the annual issue of "Epi-Notes", the Department of Health and Environmental Control's (DHEC) Disease Prevention and Epidemiology Newsletter for the list of reportable conditions by physicians and health care institutions required under State law and listed in the **MHN Policy and Procedure Guide**.

4.6.2.2 Control and Prevention of Communicable Diseases

DHEC is the state public health agency responsible for promoting and protecting the public's health and has the primary responsibility for the control and prevention of communicable diseases such as TB, STD, HIV/AIDS infection and vaccine preventable diseases. DHEC provides a range of primary and secondary prevention services through its local health clinics to provide and/or coordinate communicable disease control services.

The Contractor and/or its network provider for clinical management, treatment and directly observed therapy must refer suspected and actual TB and cases to DHEC. This care will be coordinated with the Contractor's PCP.

4.6.2.3 Patient Confidentiality

The state public health agency will promote coordination of care while ensuring patient confidentiality. Notwithstanding §4.6.2 of this Contract, in compliance with S.C. Code Ann. §44-29-135 (Supp. 2000, as amended), for Medicaid MHN Program members who choose diagnosis and treatment for TB, STD and HIV/AIDS infection in the state public health clinics, information regarding their diagnosis and treatment will be provided to the Contractor's primary care provider assigned to that member only with the written consent of the member, unless otherwise provided by law.

4.7 Manner of Service Delivery and Provision

In establishing and maintaining the service delivery network, the Contractor must consider the following:

- The anticipated Medicaid enrollment. The expected utilization of services, taking into consideration the characteristics and health care needs of specific Medicaid populations represented by the Contractor.
- The number of network providers who are not accepting new Medicaid patients.
- The geographic location of providers and Medicaid members, considering distance travel time, means of transportation ordinarily used by Medicaid members, and whether the location provides physical access for Medicaid members with disabilities.

The Contractor shall provide female members with direct access to a women's health specialist within the network for covered care necessary to provide women's routine and preventive health care services. This is in addition to the members designated source of primary care if that source is not a women's health specialist. The Contractor shall provide a second opinion from a qualified health care professional.

4.7.1 Service Area

The Contractor is authorized to develop MHNs in all counties.

4.7.2 Contractor's Network Composition

The Contractor shall not discriminate for the participation, reimbursement, or indemnification of any Primary Care Provider (see definition in 4.7.3) who is acting within the scope of his or her license or certification under applicable State law, solely on the basis of that license or certification. The Contractor shall not discriminate for the participation, reimbursement, or indemnification of any provider who serves high-risk populations or specializes in conditions that require costly treatment. If the Contractor declines to include individual or groups of providers in its network, it must give the affected providers written notice of the reason for its decision.

4.7.3 Primary Care Providers (PCP)

A PCP in the Medicaid MHN Program must be a physician or network provider/subcontractor who provides or arranges for the delivery of medical services, including case management, to assure that all services that are found to be medically necessary are made available in a timely manner as outlined in §4 of this Contract. The following practice specialties are considered Primary Care Providers: Family Medicine, General Practice, Pediatrics, Internal Medicine, OB/GYN, Federally Qualified Health Centers (FQHC), and Rural Health Clinics (RHC). The PCP may practice in a solo or group setting or may practice in a clinic (i.e., Federally Qualified Health Center or Rural Health Center) or outpatient clinic. The Contractor shall agree to provide at least one (1) full time equivalent (FTE) PCP per two thousand five hundred (2,500) members (Medicaid MHN Program members and existing commercial members).

The Medicaid MHN program member has the freedom to request a change of primary care provider within the time frames and guidelines established by the Contractor. The time frames and guidelines established by the Contractor must not conflict with the Federal rules and regulations governing time frames.

The Contractor shall identify to SCDHHS or its designee monthly any PCP approved to provide services under this Contract who will not accept new patients.

The PCP shall serve as the member's initial and most important point of interaction with Contractor's provider network. The PCP responsibilities shall include, at a minimum:

4.7.3.1 Managing the medical and health care needs of members to assure that all medically necessary services are made available in a timely manner;

4.7.3.2 Monitoring and follow-up on care provided by other medical service providers for diagnosis and treatment, to include services available under Medicaid fee-for-service;

4.7.3.3 Providing the coordination necessary for the referral of patients to specialists and for the referral of patients to services that may be available through Medicaid fee-for-service; and

4.7.3.1 Maintaining a medical record of all services rendered by the PCP and other referral providers.

4.8 Service Accessibility Standards

The Contractor and its network providers/subcontractors shall provide or arrange for Primary Care coverage services, consultation or referral, and treatment of emergency medical conditions, twenty-four hours per day, seven days per week as defined in the **MHN Policy and Procedure Guide**. Automatic referral to the hospital emergency department for services does not satisfy this requirement. Members must be allowed to obtain emergency services outside the Network regardless of whether the PCP referred the member to the provider that furnished the services. The Rights of Members, as detailed in the **MHN Policy and Procedure Guide**, shall always be taken into account when rendering treatment.

The Contractor and its network providers/subcontractors shall ensure access to health care services (distance traveled, waiting time, length of time to obtain an appointment, after-hour care) in accordance with the prevailing medical community standards for the services provided under this Contract. The SCDHHS will monitor the Contractor's service accessibility. The Contractor shall provide available, accessible and adequate numbers of service locations, service sites, professional, allied and para-medical personnel for the provision of primary care services on a 24-hour-a-day, 7-days-a week basis, as described in the **MHN Policy and Procedure Guide**, and shall take corrective action if any provider fails to comply. At a minimum, this shall include:

4.8.1 Twenty-Four (24) Hour Coverage

The Contractor shall ensure that all medically necessary primary medical care is available on a twenty-four (24) hours a day, seven (7) days a week basis through its network providers, and shall maintain, twenty-four (24) hours per day, seven (7) days per week telephone coverage to instruct Medicaid MHN Program members on where to receive emergency and urgent health care.

The Contractor's network provider/subcontractor may elect to provide 24 hour coverage by direct access or through arrangement with a triage system. The triage system arrangement must be prior approved by SCDHHS.

4.8.2 Scheduling/Appointment Waiting Times

The Contractor shall ensure that its subcontractors/network providers have an appointment system for primary care medical services that is in accordance with prevailing medical community standards but shall not exceed the following requirements:

4.8.2.1 Routine well visits scheduled within 45 days of presentation or notification, 15 days if member is pregnant;

4.8.2.2 Routine sick visits scheduled within three (3) days of presentation or notification;

4.8.2.3 Urgent, non-emergency visits within forty-eight (48) hours; and

4.8.2.4 Emergent or emergency visits immediately upon presentation at a service delivery site;

4.8.2.5 Waiting times that do not exceed forty-five (45) minutes for scheduled appointment of a routine nature.

Walk-in patients with non-urgent needs should be seen if possible or scheduled for an appointment consistent with written scheduling procedures.

Walk-in patients with urgent needs should be seen within forty-eight (48) hours.

The Contractor's network providers/subcontractors shall not use discriminatory practices with regard to members such as separate waiting rooms, separate appointment days, or preference to private pay patients.

4.9 Authorization and Referral System

The Contractor shall have a referral system for Medicaid MHN Program members requiring specialty health care services. For certain programs, prior authorization is not required. These programs are detailed in the **MHN Policy and Procedure Guide.** The Contractor shall provide monitoring and follow-up on care provided by other medical service providers for diagnosis and treatment, to include externally referred services.

There must be written evidence of the communication of the patient results/information to the referring physician by the specialty health care provider or continued communication of patient information with the PCP.

4.10 Cultural Considerations

The Contractor shall promote the delivery of services in a culturally competent manner to all members, including those with limited English proficiency and diverse cultural and ethnic backgrounds.

When the Contractor identifies Medicaid members who have visual and/or hearing impairments, an interpreter must be made available for the South Carolina Medicaid MHN Program member(s).

5 SUBCONTRACTS

The Contractor shall provide or assure the provision of all covered services specified in §4 of this Contract. The Contractor may provide these services directly or may enter into subcontracts with providers who will provide services to the members in exchange for payment by the Contractor for services rendered. Subcontracts are required with all providers of services unless otherwise approved by SCDHHS. The Contractor shall remain responsible for all contractual requirements including those performed by the subcontractor(s). Any plan to delegate responsibilities of the Contractor to a subcontractor shall be approved by SCDHHS.

Model subcontracts, including provider per member per month care coordination fee rates, shall be submitted in advance to SCDHHS and shall include a copy of and specify that the subcontractor adhere to the Quality Assessment and Performance Improvement Program (QAPI) Requirements specified by SCDHHS in the **MHN Policy and Procedure Guide**. The Contractor shall submit to SCDHHS for review and approval, prior to execution, any subcontract, including provider rates, that is materially different from the model subcontract for that provider type. The SCDHHS shall have the right to review and approve any and all subcontracts entered into for the provision of any services under this Contract.

Notification of amendments or changes to any subcontract which, in accordance with §2.6 of this Contract, materially affects this Contract shall be provided to SCDHHS prior to the execution of the amendment in accordance with §1.7 of this Contract. The Contractor shall not execute subcontracts with providers who have been excluded from participation in the Medicare and/or Medicaid program pursuant to §§1128 (42 U.S.C. 1320a-7) (2001, as amended) or 1156 (42 U.S.C. 1320 c-5) (2001, as amended) of the Social Security Act or who are otherwise barred from participation in the Medicaid and/or Medicare program. The Contractor shall not enter into any relationship with anyone debarred, suspended or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from non-procurement activities under regulations issued under Executive Orders. In the event of non-renewal of a subcontractor's agreement, the Contractor shall inform SCDHHS of the intent to terminate the subcontract ninety (90) calendar days prior to the effective date of termination of said subcontract. If the Contractor terminates the subcontract for cause, the Contractor shall notify SCDHHS sixty (60) calendar days prior to the termination. If the subcontract is terminated for any material breach, the Contractor shall give the subcontractor thirty (30) calendar days written notice give written notice of termination of a contracted provider, within fifteen (15) days after receipt of issuance of the termination notice, to each enrollee who received his or her primary care from or was seen on a regular basis by the terminated provider.

5.1 Subcontract Requirements

All subcontracts executed by the Contractor pursuant to this section shall, at a minimum, include the requirements listed below. No other terms or conditions agreed to by the Contractor and subcontractor shall negate or supersede the following requirements. All subcontracts shall:

5.1.1 Be in writing and signed by the Contractor and subcontractor;

5.1.2 Specify the effective dates of the agreement;

5.1.3 Specify that the agreement and its appendices contain all the terms and conditions agreed upon by the parties.

5.1.4 Require that no modification or change of any provision of the subcontract shall be made unless such modification is incorporated and attached as a written amendment to the subcontract and signed by the parties;

5.1.4 Assure that the subcontractor shall not enter into any subsequent agreements or subcontracts for any of the work contemplated under the agreement without the Contractor's approval;

5.1.5 Specify that the services covered by the subcontractor agreement must be in accordance with the South Carolina State Plan for Medical Assistance under Title XIX of the Social Security Act and require that the subcontractor shall provide these services to members through the last day of the month that the subcontract is in effect. All final Medicaid benefit determinations are within the sole and exclusive authority of SCDHHS or its designee;

5.1.6 Specify that the subcontractor may not refuse to provide medically necessary or covered preventive services to Medicaid MHN Program members covered under this Contract for non-medical reasons;

5.1.7 Require that the subcontractor be currently licensed and/or certified under applicable state and federal statutes and regulations and maintain throughout the term of the subcontract all necessary licenses, certifications, registrations and permits as are required to provide the health care services and/or other related activities delegated by the Contractor;

5.1.8 Specify the amount, duration and scope of services to be provided by the subcontractor;

5.1.9 Provide that emergency services be rendered without the requirement of prior authorization of any kind;

5.1.10 Require that if the subcontractor performs laboratory services, the subcontractor must meet all applicable state and federal requirements;

5.1.11 Require that an adequate record system be maintained for recording services, service providers, charges, dates and all other commonly accepted information elements for services rendered to members pursuant to the agreement (including but not limited to such records as are necessary for the evaluation of the quality, appropriateness, and timeliness of services performed under this Contract). Medicaid MHN Program members and their representatives shall be given access to and request copies of the members medical records, to the extent and in the manner provided by S.C. Code Ann. §44-115-10 et. seq., (Supp. 2000, as amended), subject to reasonable charges;

5.1.12 Provide that SCDHHS, the U.S. Department of Health and Human Services (HHS), the CMS, the Office of Inspector General, the State Comptroller, the State Auditor's Office, and the South Carolina Attorney General's Office shall have the right to evaluate through inspection, or other means, whether announced or unannounced, any records pertinent to this Contract including those pertaining to quality, appropriateness and timeliness of services and such evaluation, and when performed, shall be performed with the cooperation of the Contractor. The subcontractor shall cooperate with these evaluations and inspections;

5.1.13 Whether announced or unannounced, provide for the participation and cooperation in any internal and external quality assessment review, case management and grievance procedures established by the Contractor and/or SCDHHS or its designee;

5.1.14 Specify that the Contractor shall monitor the quality of services delivered under the agreement and initiate plans of correction where necessary to improve quality of care, in accordance with that level of care which is recognized as acceptable professional practice in the respective community in which the Contractor/subcontractor practices and/or the standards established by SCDHHS or its designee;

5.1.15 Require that the subcontractor comply with plans of correction initiated by the Contractor and/or required by SCDHHS;

5.1.16 Provide for submission of all reports and clinical information required by the Contractor, including EPSDT (if applicable);

5.1.17 Require safeguarding of information about Medicaid MHN Program members according to applicable state and federal laws and regulations and as described in §13.20 and §13.27 of this Contract;

5.1.18 Provide the name and address of the official payee to whom payment shall be made;

5.1.19 Make full disclosure of the method and amount of compensation or other consideration to be received from the Contractor;

5.1.20 Provide for prompt submission of information needed to make payment;

5.1.21 Specify that the subcontractor shall accept payment made by the Contractor as payment-in-full for covered services provided and shall not solicit or accept any surety or guarantee of payment from the member. Member shall include the patient, parent(s), guardian, spouse or any other person legally responsible for the member being served;

5.1.22 Specify that at all times during the term of the agreement, the subcontractor shall indemnify and hold SCDHHS harmless from all claims, losses, or suits relating to activities undertaken pursuant to the Contract between SCDHHS and the Contractor, unless the subcontractor is a governmental entity. For subcontractors that are not a governmental entities, the indemnification may be accomplished by incorporating §13.24 of this Contract in its entirety in the subcontractor's agreement or by use of other language developed by the Contractor and approved by SCDHHS. For governmental entities, the liability protection may be accomplished by incorporating language developed SCDHHS.

5.1.23 Require the subcontractor to secure all necessary liability and malpractice insurance coverage as is necessary to adequately protect the plan's members and the Contractor under the agreement. The subcontractor shall provide such insurance coverage at all times during the agreement and upon execution of the agreement furnish the Contractor with written verification of the existence of such coverage;

5.1.24 Specify that the subcontractor agrees to recognize and abide by all state and federal laws, regulations and guidelines applicable to the provision of services under the Medicaid MHN Program;

5.1.25 Provide that the agreement incorporates by reference all applicable federal and state laws or regulations, and revisions of such laws or regulations shall automatically be incorporated into the agreement as they become effective. In the event that changes in the agreement as a result of revisions and applicable federal or state law materially affect the position of either party, the Contractor and subcontractor agree to negotiate such further amendments as may be necessary to correct any inequities;

5.1.26 Specify procedures and criteria for any alterations, variations, modifications, waivers, extension of the agreement termination date, or early termination of the agreement and that such change shall only be valid when reduced to writing, duly signed and attached to the original of the agreement;

5.1.27 Specify that the Contractor and subcontractor recognize that in the event of termination of this Contract between the Contractor and SCDHHS for any of the reasons described in this Contract, the Contractor shall immediately make available to SCDHHS or its designated representative, in a usable form, any and all records, whether medical or financial, related to the Contractor's and subcontractor's activities undertaken pursuant to the Contractor/subcontractor agreement. The provision of such records shall be at no expense to SCDHHS;

5.1.28 Provide that the Contractor and subcontractor shall be responsible for resolving any disputes that may arise between the two (2) parties, and that no dispute shall disrupt or interfere with the provision of services to the Medicaid MHN Program member including continuity of care, should the subcontract be terminated;

5.1.29 Include a conflict of interest clause as stated in §13.31 of this Contract between the Contractor and SCDHHS;

5.1.30 Specify that the subcontractor must adhere to the Quality Assessment Performance Improvement (QAPI) and Case Management (CM) requirements as outlined in the **MHN Policy and Procedure Guide**. The QAPI and CM requirements shall be included as part of the subcontract between the Contractor and the subcontractor;

5.1.31 Provide that the subcontractors shall give the Contractor immediate notification in writing by certified mail of any administrative legal action or complaint filed and prompt notice of any claim made against subcontractor by a subcontractor, or member which may result in litigation related in any way to this Contract with SCDHHS;

5.1.32 Contain no provision which provides incentives, monetary or otherwise, for the withholding of medically necessary care. See the **MHN Policy and Procedure Guide, Incentive Plans**;

5.1.33 Specify that the subcontractor shall not assign any of its duties and/or responsibilities under this Contract without the Contractor's prior written consent;

5.1.34 Specify that the Contractor shall not prohibit or otherwise restrict a network provider/subcontractor from advising a member about the health status of the member or medical care or treatment for the member's condition or disease, regardless of whether benefits for such care or treatment are provided under the Contract, if the network provider/subcontractor is acting within the lawful scope of practice.

5.1.35 Provide that, in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) (2001, as amended) and its implementing regulation at 45 C.F.R. Part 80 (2001, as amended), the Provider must take adequate steps to ensure that persons with limited English skills receive, free of charge, the language assistance necessary to afford them meaningful and equal access to the benefits and services provided under this agreement.

5.1.36 Contain no provision which restricts a network provider/subcontractor from contracting with another managed care entity;

5.1.37 Provide that all records originated or prepared in connection with the subcontractor's performance of its obligations under this Contract, including, but not limited to, working papers related to the preparation of fiscal reports, medical records, progress notes, charges, journals, ledgers, and electronic media, will be retained and safeguarded by the subcontractor in accordance with the terms and conditions of this Contract. The subcontract must further provide that the subcontractor agrees to retain all financial and programmatic records, supporting documents, statistical records and other records of members relating to the delivery of care or service under this Contract, and as further required by SCDHHS, for a period of five (5) years from the expiration date of the Contract, including any Contract extension(s). If any litigation, claim, or other actions involving the records have been initiated prior to the expiration of the five (5) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it or until the end of the five (5) year period, whichever is later. If the subcontractor stores records on microfilm or microfiche, the subcontractor must agree to produce, at its expense, legible hard copy records upon the request of state or federal authorities, within fifteen (15) calendar days of the request;

5.1.38 Provide network providers report the required immunization data to the State Immunization Information System (SIIS) administered by the SCDHEC.

5.1.39 Require the subcontractor to check the Excluded Parties List Service administered by the General Services Administration, when it hires any employee or contracts with another subcontractor, to ensure that it does not employ individuals or use subcontractors who are debarred, suspended, or otherwise excluded from participating in Federal procurement activities and/or have an employment, consulting, or other agreement with debarred individuals for the provision of items and services that are significant to the subcontractor's contractual obligation. The subcontractor shall also report to the Contractor any employees or subcontractors that have been debarred, suspended, and/or excluded from participation in Medicaid, Medicare, or any other federal program.

5.1.40 In the event the Contractor discontinues operations, any network provider who terminates its contract with the Contractor as a result of this discontinuation shall receive its share of any cost savings agreed upon with the Contractor.

6 EDUCATION, SELECTION AND ENROLLMENT PROCESS

The South Carolina Department of Health and Human Services (SCDHHS) determines eligibility for Medicaid for all coverage groups except for Supplemental Security Income (SSI). The Social Security Administration (SSA) determines eligibility for SSI. Once SCDHHS or SSA determines an applicant eligible for Medicaid, the pertinent eligibility information is entered in the Medicaid Eligibility Determination System (MEDS). The rights afforded to potential MHN members are detailed in the **MHN Policy and Procedure Guide**, **Members' Bill of Rights.**

6.1 Enrolling Eligibles in the Contractor's Plan

If an eligible is enrolled in a managed care program, the SCDHHS or its designee will enter the enrollment information as provided in §6.2 of this Contract. SCDHHS or its designee will provide the Contractor notification of the Medicaid eligibles who are enrolled, re-enrolled, or disenrolled from its managed care plan as specified in §6.7. The Contractor shall contact the members as required in §8 of this Contract. SCDHHS or its designee will notify the eligibles of their enrollment and of their rights to change providers or to disenroll from the plan for cause.

The Contractor shall not discriminate against Medicaid MHN Program members on the basis of their health history, health status or need for health care services or adverse change in health status and shall accept eligibles in the order in which they apply. This applies to enrollment, re-enrollment or disenrollment from the Contractor's plan. The Contractor shall provide services to all eligible Medicaid MHN Program members who enroll in the Contractor's plan.

6.2 Enrollment Period

The Medicaid MHN Program members shall be enrolled for a period of twelve (12) months contingent upon their continued Medicaid eligibility. The member may request disenrollment once, without cause, at any time during the ninety (90) calendar days following the date of the member's initial enrollment or re-enrollment with the MHN. A member shall remain in the Contractor's plan unless the member submits a written, electronic or oral request to disenroll, to change managed care plans for cause or unless the member becomes ineligible for Medicaid and/or MHN enrollment. Oral requests to disenroll or transfer to another managed care plan for cause or the member becomes ineligible for Medicaid and/or MHN enrollment.

Annually, SCDHHS or its designee will mail a re-enrollment offer to Medicaid MHN members to determine if they wish to continue to be enrolled with the Contractor's plan; no less than 60 days prior to the start of the re-enrollment period. Unless the member becomes ineligible for the Medicaid MHN Program or provides written, oral or electronic notification that he/she no longer wishes to be enrolled in the Contractor's plan, the member will remain enrolled with the Contractor. A Medicaid MHN Program member who becomes disenrolled due to loss of Medicaid eligibility and submits a new enrollment form and becomes enrolled in the Contractor's plan within sixty (60) calendar days will be automatically enrolled in the Contractor's plan. Depending on the date eligibility is regained; there may be a gap in the member's MHN coverage. If Medicaid eligibility is regained after sixty (60) calendar days, the reinstatement of Medicaid eligibility will prompt the SCDHHS Enrollment Broker to mail an enrollment packet to the beneficiary. The beneficiary may also initiate the re-enrollment process without an enrollment packet.

6.3 Contractor Follow Up of Voluntary Disenrollees

The Contractor may conduct an initial follow up for all voluntary disenrollees. These members will be identified on the member listing file with a special indicator. SCDHHS will provide the Contractor with a member listing file (enrollments and disenrollments). The Contractor may contact the member upon receipt of the monthly member listing file. However, follow up must be within the guidelines outlined in the **MHN Policy and Procedure Guide.**

6.4 Member Initiated Disenrollment and Change of Managed Care Plans

A member may request disenrollment from the MHN as follows:

- For cause, at any time.
- Without cause, at the following times:
  - During the Member Choice Period.
  - At least once every 12 months thereafter.

A member's request to disenroll must be acted on no later than the first day of the second month following the month in which the member filed the request. If not, the request shall be considered approved.

6.4.1 Member Disenrollment For Cause

A member may request disenrollment from the MHN for cause at any time. For cause disenrollment requests must be submitted to SCHCC on the appropriate form.

The following are considered cause for disenrollment by the member:

- The member moves out of the MHN's service area;
- The plan does not, because of moral or religious objections, cover the service the member seeks;
- The member needs related services (for example, a cesarean section and a tubal ligation) to be performed at the same time; not all related services are available within the network; and the member's PCP or another provider determines that receiving the services separately would subject the enrollee to unnecessary risk; and
- Other reasons, including, but not limited to, poor quality of care, lack of access to services covered under the Contract, or lack of access to providers experienced in dealing with the member's health care needs.

6.4.2 Member Choice Period

A member may request disenrollment **once**, without cause, at any time during the ninety (90) calendar days following the date of the member's initial enrollment or re-enrollment with the MHN. The request and may be verbal, written or electronic and must be made to SCHCC.

6.5 Contractor Initiated Member Disenrollment

The Contractor may request to disenroll a Medicaid MHN Program member based upon the following reasons:

- Contractor ceases participation in the Medicaid MHN Program or in the Medicaid MHN Program member's service area;
- Member dies;
- Member is placed out of home (i.e. Intermediate Care Facility for the Mentally Retarded (ICF/MR), Psychiatric Residential Treatment Facility (PRTF);
- Member becomes an inmate (see **Appendix A – Definition of Terms and Acronyms**) of a Public Institution;
- Member moves out of State or MHN service area or plan does not operate in the new service area;
- Member elects Hospice;
- Member becomes institutionalized in a Long Term Care Facility/Nursing Home for more than thirty (30) days;
- Member elects Home and Community Based Waiver Programs, with the exception of the Medically Complex Children's Program
- Member fails to follow the rules of the managed care plan.

- Member's behavior is disruptive, unruly, abusive, or uncooperative and impairs the MHN's ability to furnish services to the member or other enrolled members.

The Contractor's request for member disenrollment must be made in writing to SCDHHS using the SCDHHS Plan Initiated Disenrollment Form) in the **MHN Policy and Procedure Guide** and the request must state the detailed reason for disenrollment. SCDHHS will determine if the Contractor has shown good cause to disenroll the member and SCDHHS will give written notification to the Contractor and the member of its decision. The Contractor and the member shall have the right to appeal any adverse decision.

The Contractor shall not request disenrollment because of any adverse change in the member's health status, or because of the member's utilization of medical services, diminished mental capacity, or uncooperative or disruptive behavior resulting from his or her special needs (except when the member's continued enrollment in the Plan seriously impairs the Contractor's ability to furnish services to either this particular member or other members).

If the Contractor ceases participation in the eligible's service area or ceases participation in the Medicaid MHN Program, the Contractor shall notify SCDHHS in accordance with the termination procedures in §13.2 of this Contract. SCDHHS or its designee will notify MHN Program members and offer them the choice of regular fee for service Medicaid or another managed care plan in their service area. If there are no other managed care options, they will be placed in regular fee-for-service Medicaid. The Contractor shall assist the SCDHHS in transitioning Medicaid MHN Program members to another managed care plan or to the Medicaid fee-for-service delivery system to ensure access to needed health care services.

6.6 SCDHHS Initiated Member Disenrollment

The SCDHHS will notify the Contractor of the member's disenrollment due to the following reasons:

- Loss of Medicaid eligibility or loss of Medicaid MHN Program eligibility;
- Death of a Member;
- Member is placed out of home (i.e. Intermediate Care Facility for the Mentally Retarded (ICF/MR), Psychiatric Residential Treatment Facility (PRTF);
- Member's intentional submission of fraudulent information;
- Becomes an inmate (see **Appendix A** – **Definition of Terms and Acronyms**) of a Public Institution;
- Member moves out of state or MHN service area or plan does not operate in the new service area;
- Member becomes institutionalized in a Long Term Care Facility/Nursing Home for more than thirty (30) days;
- Member elects Home and Community Based Waiver Programs, with the exception of the Medically Complex Children's Program;
- Loss of Contractor's Participation;

- Member enrolls in another Medicaid managed care plan; or, Member's behavior is disruptive, unruly, abusive, or uncooperative and impairs the MHN's ability to furnish services to the member or other enrolled members.

The Contractor shall immediately notify SCDHHS when it obtains knowledge of any Medicaid MHN Program member whose enrollment should be terminated. See the **MHN Policy and Procedure Guide.**

In an effort to minimize the number of disenrollments due to loss of Medicaid eligibility, SCDHHS or its designee will provide the Contractor with a monthly listing of Medicaid MHN Program members who were mailed an Eligibility Redetermination/Review Form during the month. The Contractor may use this information to assist its members in taking appropriate action to maintain Medicaid eligibility.

6.7 Notification to Managed Care Plan of Membership

SCDHHS or its designee will notify each Contractor at specified times each month of the Medicaid eligibles who are enrolled, re-enrolled, or disenrolled from their managed care plan for the following month. The Contractor will receive this notification through electronic media. See the **MHN Policy and Procedure Guide** for record layout.

SCDHHS will use its best efforts to ensure that the Contractor receives timely and accurate enrollment and disenrollment information. In the event of discrepancies or irresolvable differences between the SCDHHS and the Contractor regarding enrollment, disenrollment and/or termination, SCDHHS will be responsible for taking the appropriate action for resolution.

6.8 Toll Free Telephone Number

SCDHHS or its designee will maintain a toll free telephone number for Medicaid applicants and eligibles to call and ask questions or obtain information about the enrollment process, including but not limited to, information concerning the managed care plans available to them.

6.9 Tracking Slot Availability

The Contractor shall identify the maximum number of Medicaid MHN Program members it is able to enroll and maintain under this Contract prior to initial enrollment of Medicaid eligibles. The Contractor shall accept

Medicaid eligibles as Medicaid MHN Program members in the order in which they apply as determined by SCDHHS up to the limits specified in the **MHN Policy and Procedure Guide.** The Contractor agrees to provide services to Medicaid MHN Program members up to the limits indicated for the Contractor in the **MHN Policy and Procedure Guide.** SCDHHS reserves the right to approve or deny the maximum number of Medicaid MHN Program members to be enrolled in the Contractor's plan based on SCDHHS' determination of the adequacy of network capacity.

On a monthly basis, and consistent with the **MHN Policy and Procedure Guide**, the Contractor will update its maximum enrollment by county numbers. The Contractor shall track slot availability and notify SCDHHS' Enrollment Broker when filled slots are near capacity. Upon notification, SCDHHS or its designee will not assign any other eligibles to that plan without consulting the Contractor first.

The SCDHHS will notify the Contractor when the Contractor's enrollment levels are maximized and will not enroll eligibles when there are no more slots available.

6.10 Billing and Reconciliation

If the Contractor desires a reconciliation of the enrollment, re-enrollment, and disenrollment data received from SCDHHS, the Contractor shall be responsible for that reconciliation. In the event of discrepancies, the Contractor shall notify SCDHHS or its designee immediately of the discrepancy.

7 MARKETING

Marketing is defined as any communication from a MHN to a Medicaid beneficiary who is not enrolled in that entity, that can reasonably be interpreted as intended to influence the beneficiary to enroll in that particular MHN's Medicaid product, or either to not enroll in, or to disenroll from, another Medicaid product. Activities involving distribution and completion of the MHN enrollment form during the course of marketing activities are enrollment functions and are considered separate and distinct from marketing.

Under the S.C. Medicaid MHN Program, all direct marketing to Medicaid applicants or recipients will be performed exclusively by SCDHHS or its designee. Direct marketing includes direct mail advertising, door-to-door, telephonic, or other "cold call" marketing. . The Contractor shall not sponsor or attend any marketing activities without notifying SCDHHS. All marketing and educational materials must be approved by SCDHHS prior to use. All marketing/advertising and member education activities must comply with instructions as specified in the **MHN Policy and Procedure Guide**.

SCDHHS may impose sanctions against the Contractor if SCDHHS determines that the Contractor distributed directly or /indirectly or through any agent or independent contractor marketing materials and/or MHN enrollment forms in violation of federal law.

7.1 Information Provided for Enrollment Process

The Contractor shall provide each member with clear, accurate and truthful information about the Contractor's health plan to ensure compliance with this Contract and with state and federal laws and regulations. The Contractor shall be responsible for developing and distributing its own member specific marketing, educational and enrollment materials including but not limited to, evidence of coverage and other materials designed for member education. All written material shall be written at a grade level no higher than the fourth (4th) grade, or as determined appropriate by SCDHHS. The Contractor shall not cause or knowingly permit the use of advertising which is untrue, misleading or deceptive. The information must include a statement that enrollment in the Contractor's Plan by a Medicaid applicant/eligible shall be voluntary.

The Contractor shall inform the members that enrollment shall be for a period of twelve (12) months contingent upon their continued Medicaid eligibility and that the member may request disenrollment once, without cause, at any time during the ninety (90) calendar days following the date of the member's initial enrollment with the MHN.

7.2 Marketing Plan and Materials

The Contractor shall develop and implement a marketing plan for participation in the SC Medicaid MHN Program. The Contractor shall describe the marketing activities it will undertake during the Contract period. The Contractor's marketing plan shall take into consideration the projected enrollment levels. The Contractor shall notify SCDHHS of its participation in each community event designed to increase community awareness of its participation in the Medicaid MHN Program.

Enrollment activities conducted by the Contractor are specifically prohibited in counties where the enrollment broker is performing that function. Only written materials describing the Contractor's plan, as approved by SCDHHS, can be distributed at such events. All marketing activities shall comply with the **MHN Policy and Procedure Guide,** Marketing and this Contract.

Materials used for the purpose of marketing to Medicaid MHN program members must be prior approved by SCDHHS and meet the standards for marketing materials outlined in the **MHN Policy and Procedure Guide**. The Contractor shall ensure that where ten percent (10%) of the resident population of a county is non-English speaking and speaks a specific foreign language, materials shall be made available in that specific language to assure a reasonable chance for all potential members to make an informed choice of managed care plans. The Contractor is required to provide all materials designed for beneficiaries in Spanish. The Contractor is prohibited from offering or giving any form of compensation or reward as an inducement to enroll in the Contractor's plan.

7.3 Approval of Marketing Plan and Materials

The Contractor shall submit to SCDHHS or its designee all marketing plans and written materials directed at Medicaid eligibles or potential eligibles for prior approval. These materials include, but are not limited to, materials produced for marketing, member education, evidence of coverage, and grievance procedures. Marketing materials such as all types of media including brochures, leaflets, newspapers and magazines, and radio, television, billboard and yellow page advertisements directed at Medicaid eligibles or potential eligibles. Marketing materials also include internet-based materials.

8 POST ENROLLMENT PROCESS

The post enrollment process for the Medicaid MHN program shall be as follows:

8.1 Member Services Availability

The Contractor shall maintain an organized, integrated member/patient services function, to be operated during regular business hours, to assist members with PCP selection, to explain the Contractor's policies and procedures (re: access and availability of health services), to provide additional information about the PCPs and/or specialist(s), to facilitate referrals to specialists, and to assist in resolving service and/or medical delivery problems and member complaints.

The Contractor shall agree to maintain a toll-free telephone number for Medicaid MHN Program members' inquiries. The toll-free telephone number shall be required to provide prior authorization/access and information of services during evenings and weekends.

8.2 Member Education

The Contractor shall educate members regarding the appropriate utilization of services access to specialized and emergency care and the process for prior authorization of services. Such education shall be provided no later than fourteen (14) calendar days from the Contractor's receipt of enrollment data from SCDHHS or its designee, and as needed thereafter. The Contractor shall identify and educate members who access the system inappropriately and provide continuing education as needed.

The Contractor shall ensure that where at least ten percent (10%) or more of the resident population of a county is non-English speaking and speaks a specific foreign language, materials will be made available in that specific language to assure a reasonable chance for all members to understand how to access the plan and use services appropriately. The Contractor is required to provide all materials designed for beneficiaries in Spanish.

The Contractor shall have written policies and procedures for educating Medicaid MHN Program members about their benefits.

The Contractor shall coordinate with SCDHHS or its designee on member education activities as outlined in the **MHN Policy and Procedure Guide** to meet the health care educational needs of the Medicaid MHN Program members.

The Contractor shall not discriminate against Medicaid MHN members on the basis of their health history, health status or need for health care services. This applies to enrollment, re-enrollment or disenrollment from the Contractor's plan.

8.2.1 Enrollment Materials

The Contractor's written enrollment materials shall be governed by the requirements and limitations described in the **MHN Policy and Procedure Guide**. The enrollment materials must be approved by SCDHHS or its designee prior to distribution or use by the Contractor. All materials shall be written at a grade level no higher than fourth grade, "or as determined appropriate by SCDHHS", and contain the minimum information as outlined in the **MHN Policy and Procedure Guide**.

The Contractor shall include the names, locations, telephone numbers and non-English languages spoken by current contracted providers in the enrollee's service area, including the identification of providers that are not accepting new patients. The Contractor shall make clear any restrictions on the enrollee's freedom of choice among network providers.

8.2.2 Member Handbook

SCDHHS shall provide the Contractor with an electronic version of the MHN Member Handbook in both English and Spanish. The Contractor shall provide each member with a member handbook and other written materials information.

8.3 Member's Rights and Responsibilities

The Contractor shall furnish Medicaid MHN Program members with both verbal and written information about the nature and extent of their rights and responsibilities as members of the Contractor's plan. The rights afforded to current members are detailed in the **MHN Policy and Procedure Guide,** Members' Bill of Rights**.** The written information shall be prepared at a reading comprehension level no higher than fourth (4th) grade, "or as determined appropriate by SCDHHS." The minimum information shall include: the member's rights to receive written information about the Contractor's managed care plan including information on the structure and operation of the Plan; the network providers/subcontractors providing the member's health care, including

information on any providers who are non-English speaking; information about the amount, duration, and scope of benefits available and how to obtain these benefits; information on the confidentiality of patient information; the right to file grievances or complaints about the Contractor and/or care provided; any restrictions on the member's freedom of choice among network providers; the extent to which, and how, after-hours and emergency coverage are provided; and any other information that affects the member's enrollment into the Contractor's plan. The Contractor shall notify the Medicaid MHN Program members at least annually following initial enrollment of their right to request and receive this information.

The Medicaid MHN Program members' responsibilities shall include but are not limited to: informing the Contractor of the loss or theft of their Medicaid ID cards; presenting their ID cards when using health care services; being familiar with the plan's procedures to the best of their abilities; calling or contacting the Contractor to obtain information and have questions clarified; providing participating network providers with accurate and complete medical information; following the prescribed treatment of care recommended by the provider or letting the provider know the reasons the treatment cannot be followed, as soon as possible; making every effort to keep any agreed upon appointments; and, accessing preventive care services.

9 GRIEVANCE AND APPEAL PROCEDURES

The Contractor shall establish and maintain a procedure for the receipt and prompt internal resolution of all member grievances and appeals in accordance with S.C. Code Ann. §38-33-110 (Supp. 2002, as amended) and 42 CFR Section §438.400, et seq. The Contractor's grievance and appeal procedures and any changes thereto must be approved in writing by SCDHHS prior to their implementation and must include at a minimum the requirements set forth herein. The Contractor shall refer all Medicaid MHN Program members who are dissatisfied in any respect with the Contractor or its subcontractor to the Contractor's designee authorized to require corrective action. In all cases, where the member has a grievance about treatment by the Contractor, or its subcontractor, the member must exhaust the Contractor's internal grievance/appeal procedures prior to accessing the State's Fair Hearing process.

If the member is grieving a disenrollment issue, the Contractor's grievance process must be completed in time to permit the disenrollment, if approved, to be effective in accordance with the timeframe specified in 42 CFR §438.56(e)(1). If, as a result of the grievance process, the Contractor approves the disenrollment, the State shall not be required to make a determination.

9.1 Notice of Grievance and Appeal Procedures

The Contractor shall ensure that all Medicaid MHN Program members are informed of the State's Fair Hearing process and of the Contractor's grievance and appeal procedures. The Contractor shall provide each member with a member handbook that shall include descriptions of the Contractor's grievance and appeal procedures. Forms on which members

may file grievances, appeals, concerns or recommendations to the Contractor shall be available through the Contractor, and must be provided upon member's request.

9.2 Grievance/Appeal Records and Reports

A copy of an oral grievances log and records of disposition of written appeals shall be retained in accordance with the provisions of S.C. Code Ann. §38-33-110 (2) (a) (Supp. 2002, as amended).

The Contractor shall provide SCDHHS with a quarterly written report of all grievances/appeals filed by Medicaid MHN Program members, to include: member's name and Medicaid number; summary of grievance and/or appeal; date of filing; current status; resolution; and any resulting corrective action. The Contractor will be responsible for promptly forwarding any adverse decisions to SCDHHS for further review/action upon request by SCDHHS or the Medicaid MHN Program member. The SCDHHS may submit recommendations to the Contractor regarding the merits or suggested resolution of any grievance or appeal. See the **MHN Policy and Procedure Guide**.

9.3 Requirements for State Fair Hearings.

9.3.1 Availability. If the member has exhausted the Contractor level appeal procedures, the member may request a State Fair Hearing within thirty (30) calendar days from the date of the Contractor's notice of resolution.

9.3.2 Parties. The parties to the State Fair Hearing include the Contractor as well as the member and his or her representative or the representative of a deceased member's estate.

9.4 Grievance System

The Contractor must provide the information specified at 42 CFR Section §438.10(g) (1) about the grievance system to all providers and subcontractors at the time they enter into a contract.

9.5 Record-keeping and Reporting Requirements

Reports of grievances and resolutions shall be submitted to SCDHHS as specified in §§8.3,9 and 10.2 of this Contract. The Contractor shall not modify the grievance procedure without SCDHHS's prior written approval.

10 REPORTING REQUIREMENTS

The Contractor is responsible for complying with all of the reporting requirements established by SCDHHS. The Contractor shall provide SCDHHS test media of all required electronic files prior to Contract execution for prior approval. The requirements for electronic files can be found in the **MHN Policy and Procedure**

Guide. The Contractor shall provide to SCDHHS and any of its designees with copies of agreed upon reports generated by the Contractor concerning Medicaid MHN Program members and any additional reports as requested in regard to performance under this Contract. SCDHHS will provide the Contractor with the appropriate reporting formats, instructions, submission timetables, and technical assistance when required. All reporting periods Minimum Data Elements and required formats for these reports are specified in the **MHN Policy and Procedure Guide**. All reports shall be submitted in accordance with the schedule outlined in §13.3, Deliverables of this Contract.

Additional reports may be required in the MHN Policy and Procedure Guide**.** The Contractor shall certify all submitted data, documents and reports. The certification must attest, based on best knowledge, information, and belief; (1) to the accuracy, completeness and truthfulness of the data; and (2) to the accuracy, completeness and truthfulness of all documents and reports required by SCDHHS. The data shall be certified by one of the following: (1) the Contractor's Chief Executive Officer (CEO); (2) the Contractor's Chief Financial Officer (CFO); or (3) an individual who has the delegated authority to sign for, and who reports directly to the CEO or CFO. Certification shall be submitted concurrently with the certified data.

10.1 Contractor's Network Providers and Subcontractors

The Contractor shall furnish to SCDHHS or its designee a report of all network providers and subcontractors enrolled in the Contractor's plan. SCDHHS will provide the Contractor with Medicaid provider identification numbers. It shall be the Contractor's responsibility to assure confidentiality of the Medicaid providers' identification numbers and indemnity of SCDHHS in accordance with §13.24 of this Contract. This information shall be provided to SCDHHS on a continuing, updated basis. The SCDHHS is to be provided advance copies of all updates not less than ten (10) business days in advance of distribution. Any provider no longer taking new patients must be clearly identified. Any age restrictions

for a provider must be clearly identified. The Minimum Data Elements and required format for this listing may be found in the **MHN Policy and Procedure Guide.**

10.2 Grievance/Appeal Log Summary Reporting

The Contractor shall log grievance/appeal information regarding all active and resolved grievances/complaints/appeals on a monthly basis and submit it to SCDHHS quarterly. The Minimum Data Elements and required format are identified in the **MHN Policy and Procedure Guide.**

10.3 Disenrollment Reporting

The Contractor shall submit disenrollment requests to SCDHHS for approval in accordance with §6 of this Contract**.** The Contractor shall immediately notify SCDHHS when it obtains knowledge of any Medicaid MHN Program member whose enrollment should be terminated. See the **MHN Policy and Procedure Guide** for a sample form.

10.4 Quality Assessment and Performance Improvement

The Contractor will submit reports of Quality Assessment and Performance Improvement (QAPI) activities, including, QAPI Work Plan, Plan of Correction (POC), Case Management (CM) activities and Work Plan, and Quality Measures documentation in accordance with the periodicity contained in §11 of this Contract and the **MHN Policy and Procedure Guide** .

10.5 Medicaid Enrollment Capacity by Practice Report

Monthly and upon request, the Contractor shall submit a Medicaid Enrollment Capacity by practice report. The Minimum Data Elements' and required format are identified in the **MHN Policy and Procedure Guide.**

10.6 Additional Reports

The Contractor shall prepare and submit any other reports as required and requested by SCDHHS, any of SCDHHS designees, and/or CMS, that are related to the Contractor's duties and obligations under this Contract. Information the Contractor considers proprietary must be clearly identified as such by the Contractor at the time of submission.

10.7 Ownership Disclosure

Federal laws require full disclosure of ownership, management, and control of Medicaid prepaid health plans (42 CFR §§455.100-455.104 (2009, as amended).The Disclosure of Ownership and Control Interest Statement must be submitted to SCDHHS with this Contract; and resubmitted to SCDHHS prior to each Contract period or when any change in the Contractor's management, ownership or control occurs. The Contractor agrees to report any changes in ownership and disclosure information to SCDHHS at least thirty (30) calendar days prior to the effective date of the change.

10.8 Information Related to Business Transactions

The Contractor agrees to furnish to SCDHHS or to HHS information concerning significant business transactions as set forth in 42 CFR §455.105 (2009, as amended). Failure to comply with this requirement may result in termination of this Contract.

The Contractor also agrees to submit, within thirty-five (35) calendar days of a request from SCDHHS, full and complete information about:

1. The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than $25,000 during the 12-month period ending on the date of this request; and

2. Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the five-year period ending on the date of this request.

For the purpose of this contract, "significant business transactions" means any business transaction or series of transactions during any of the fiscal year that exceed $25,000 or 5% of the Contractor's total operating expenses.

10.9 Information on Persons Convicted of Crimes

The Contractor agrees to furnish to SCDHHS or HHS information concerning any person convicted of a criminal offense under a program relating to Medicare (Title XVIII) and Medicaid (Title XIX) as set forth in §42 CFR 455.106 (2009, as amended). Failure to comply with this requirement may lead to termination of this Contract.

10.10 Errors

The Contractor agrees to prepare complete and accurate reports for submission to SCDHHS as defined in §13.3 of this Contract and in the format described in the **MHN Policy and Procedure Guide**. If, after preparation and submission, a Contractor error is discovered either by the Contractor or SCDHHS, the Contractor must correct the error(s) and submit accurate reports fifteen (15) calendar days from the date of discovery by the Contractor or date of written notification by SCDHHS (whichever is earlier).

The Contractor's failure to respond within the above specified timeframes may result in a loss of any money due the Contractor and the assessment of liquidated damages as provided in §13.3 of this Contract.

11 QUALITY ASSESSMENT, MONITORING AND REPORTING

11.1 Quality Assessment

The Contractor will establish and implement a system of Quality Assessment and Performance Improvement (QAPI) as required by 42 CFR §§438.200-438.242 and a Case Management (CM) strategy as detailed within the MHN Policy and Procedure Guide. The Contractor will submit, annually by December 15, its Quality Assessment Work Plan, UM Work Plan and Program Integrity Plan to SCDHHS for review and approval. Any subsequent changes or revisions must be submitted to SCDHHS for approval prior to implementation.

The full scopes of QAPI and CM requirements are outlined in the MHN Policy and Procedure Guide**, Quality Assessment and Case Management Requirements.**

The Contractor agrees to External Quality Review, review of Quality Assessment Committee meeting minutes and annual medical audits to ensure that it provides quality and accessible health care to Medicaid MHN Program members, in accordance with standards contained in the **MHN Policy and Procedure Guide** and under the terms of this Contract. Such audits shall allow SCDHHS or its duly authorized representative to review individual medical records and identify and collect management data, including, but not limited to, survey and other information concerning the use of services and the reasons for disenrollment.

It is agreed that the standards by which the Contractor will be surveyed and evaluated will be at the SCDHHS' sole discretion and approval. If deficiencies are identified, the Contractor must formulate a Plan of Correction (POC) incorporating a timetable within which it will correct deficiencies identified by such evaluations and audits. SCDHHS must prior approve the POC and will monitor the Contractor's progress in correcting the deficiencies. See the MHN Policy and Procedure Guide**.**

The Contractor must attain accreditation by a nationally recognized Quality Review Organization such as the National Committee for Quality Assurance (NCQA) within a reasonable time period, not to exceed four years from the initial county network approval date. SCDHHS will consider other nationally recognized organizations, but prior approval from the SCDHHS QAPI department must be obtained prior to survey application.

11.2 Quality Monitoring Activities

SCDHHS is responsible for monitoring the Contractor's performance to assure the Contractor is in compliance with the Contract provisions and the MHN Policy and Procedure Guide. SCDHHS or its designee shall coordinate with the Contractor to establish the scope of review, the review site, relevant time frames for obtaining information, and the criteria for review.

SCDHHS or its designee will at least annually monitor the operation of the Contractor for compliance with the provisions of this Contract, the MHN **Policy and Procedure Guide**, and applicable federal and state laws and regulations.

11.3 External Quality Review

The SCDHHS will perform periodic medical audits through contractual arrangements to determine if the Contractor furnished quality and accessible health care to Medicaid MHN program members in compliance with this contract and with the regulations pertaining to Primary Care Case Management programs found in 42 CFR §438. SCDHHS will contract with an External Quality Review Organization (EQRO) to perform the periodic medical audits and external independent reviews. The **MHN Policy and Procedure Guide** lists SCDHHS external quality assessment evaluation requirements.

The Contractor must make provisions for prompt response to any detected deficiencies or contract violations and for the development of corrective action initiatives relating to this Contract.

11.4 Quality Measures

The Contractor is required to conduct quality of care outcome studies which include quality measures as outlined in the **MHN Policy and Procedure Guide.** SCDHHS may impose liquidated damages, sanctions and/or restrict enrollment pending attainment of acceptable quality of care.

11.5 Inspection, Evaluation and Audit of Records

At any time, whether announced or unannounced, USHHS, the State Auditor's Office, the Office of the Attorney General, General Accounting Office (GAO), the Comptroller General, SCDHHS, and/or any of the designees of the above, and as often as they may deem necessary during the contract period and for a period of five (5) years from the expiration date of this Contract (including any extensions to the Contract), shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services provided under the terms of this Contract and the **MHN Policy and Procedure Guide**. The Contractor shall make all program and financial records and service delivery sites open to the representative or any designees of the above. HHS, SCDHHS, GAO, the State Auditor's Office, the Comptroller General, the Office of the Attorney General, and/or the designees of any of the above shall have the right to examine and make copies, excerpts or transcripts from all records, contact and conduct private interviews with Contractor clients and employees, and do on-site reviews of all matters relating to service delivery as specified by this Contract. See the **MHN Policy and Procedure Guide.**

The Contractor and all of its subcontractors will make office work space available for any of the above-mentioned entities or their designees when the entities are inspecting or reviewing any records related to the provision of services under this Contract. If any litigation, claim, or other action involving the records has been initiated prior to the expiration of the five (5) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it or until the end of the five (5) year period, whichever is later. SCDHHS and/or any designee will also have the right to:

11.5.1 Inspect and evaluate the qualifications and certification or licensure of Contractor's subcontractors;

11.5.2 Evaluate, through inspection of Contractor‘s and its subcontractor's facilities or otherwise, the appropriateness and adequacy of equipment and facilities for the provision of quality health care to members;

11.5.3 Evaluate the Contractor's performance for the purpose of determining compliance with the requirements of the Contract;

11.5.4 Audit and inspect any of Contractor's or its subcontractor's records that pertain to health care or other services performed under this Contract, determine amounts payable under this Contract, or the capacity of the Contractor to bear the risk of financial losses; and

11.5.5 Monitor enrollment and termination practices and ensure proper implementation of the Contractor's grievance procedures, in compliance with 42 CFR §§438.226-438.228 (2009, as amended). SCDHHS and/or its designee shall have access to all information related to complaints and grievances filed by Medicaid MHN Program members.

The Contractor agrees to provide, upon request, all necessary assistance in the conduct of the evaluations, inspections, and audits. The Contractor also agrees that all statements, reports and claims, financial and otherwise, shall be certified as true, accurate, and complete, and the Contractor shall not submit for payment purposes those claims, statements, or reports which it knows, or has reason to know, are not properly prepared or payable pursuant to federal and state law, applicable regulations, this Contract, or SCDHHS policy.

11.6 Changes Resulting from Monitoring and Audit

The Contractor will be responsible for assuring corrective actions are taken when a Contractor or subcontractor's quality of care is inadequate. SCDHHS reserves the right to suspend enrollment in the plan if it is determined that quality of care is inadequate. See the **MHN Policy and Procedure Guide.**

In the event the Contractor fails to complete the actions required by the POC, the Contractor agrees that SCDHHS will assess the liquidated damages specified in §13.3 of this Contract. The Contractor further agrees that any liquidated damages assessed by SCDHHS will be due and payable to SCDHHS immediately upon notice. If payment is not made by the due date, said liquidated damages may be withheld by SCDHHS from Contractor’s future payments without further notice.

11.7 Medical Records Requirements

The Contractor will require network providers/subcontractors to maintain up-to-date medical records at the site where medical services are provided for each Medicaid MHN Program member enrolled under this Contract. Each member's record must be legible and maintained in detail consistent with good medical and professional practice which permits effective internal and external quality review and/or medical audit and facilitates an adequate system of follow-up treatment. The Contractor shall

ensure within its own provider network that SCDHHS representatives or designees shall have immediate and complete access to all records pertaining to the health care services provided to Medicaid MHN Program members. Medical record requirements are further defined in the **MHN Policy and Procedure Guide**.

11.8 Record Retention

All records originated or prepared in connection with Contractor's performance of its obligations under this Contract, including but not limited to, working papers related to the preparation of fiscal reports, medical records, progress notes, charges, journals, ledgers and electronic media will be retained and safeguarded by the Contractor and its subcontractors in accordance with the terms and conditions of this Contract.

The Contractor further agrees to retain all financial and programmatic records, supporting documents, statistical records and other records of members relating to the delivery of care or service under this Contract, and as further required by SCDHHS, for a period of five (5) years from the expiration date of the Contract, including any Contract extension(s). If any litigation, claim, or other actions involving the records have been initiated prior to the expiration of the five (5) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it or until the end of the five (5) year period, whichever is later. If the Contractor stores records on microfilm or microfiche, the Contractor hereby agrees to produce at Contractor's expense, legible hard copy records upon the request of state or federal authorities, within fifteen (15) calendar days of the request.

12 SCDHHS RESPONSIBILITIES

12.1 SCDHHS Contract Management

The SCDHHS will be responsible for the administrative oversight of the Medicaid MHN Program. As appropriate, SCDHHS will provide clarification of the Medicaid MHN Program and Medicaid policy, regulations and procedures. The SCDHHS will be responsible for management of this Contract. All Medicaid policy decision making or Contract interpretation will be made solely by SCDHHS. The management of this Contract will be conducted in the best interests of SCDHHS and the Medicaid MHN Program members. See §3 of this Contract for more detailed information on SCDHHS' contract management responsibilities.

Whenever SCDHHS is required by the terms of this Contract to provide written notice to the Contractor, such notice will be signed by the Director of SCDHHS or his/her designee.

12.2 Method of Reimbursement

SCDHHS will pay the Contractor a prospective case management/care coordination fee as listed in Appendix B of this contract. Any Care Coordination PMPM fee that the Contractor chooses to pay to the participating practices shall be paid from this prospective PMPM. Detailed information on Physician Incentive Plan requirements may be found in the **MHN Policy and Procedure Guide**.

12.3 Payment in Full

Payment by SCDHHS for services provided to a beneficiary under this contract, plus any co-payment required by SCDHHS to be paid by the beneficiary, shall constitute payment in full to the Contractor and the Contractor shall not bill, request, demand, solicit or in any manner receive or accept payment or contributions from the beneficiary or any other person, family member, relative, organization or entity for care or services to a beneficiary except as may otherwise be allowed under federal regulations or in accordance with SCDHHS policy. Any collection of payment or deposits in violation of this Section shall be grounds for termination of this Contract and reimbursement for any services to beneficiaries made after such collection or attempt to collect may be denied by SCDHHS and shall be subject to recoupment for any beneficiary payment made.

12.4 Notification of Medicaid MHN Program Policy and Procedures

SCDHHS will provide the Contractor with updates to appendices, information on and interpretation of all pertinent federal and state Medicaid regulations, and Medicaid MHN Program policies, procedures and guidelines affecting the provision of services under this Contract. The Contractor will submit written requests to SCDHHS for additional clarification, interpretation or other information in a grid format specified by SCDHHS. Provision of such information does not relieve the Contractor of its obligation to keep informed of applicable federal and state laws related to its obligations under this Contract.

12.5 Provider Participation

The Contractor agrees to comply with all applicable provisions of 2 CFR Part 376 (2009, as amended), pertaining to debarment and/or suspension. As a condition of enrollment, the Contractor should screen all employees and subcontractors to determine whether they have been excluded from participation in Medicare, Medicaid, the State Children's Health Insurance Program, and/or all federal health care programs. To make this determination, the Contractor may search the LEIE website located at http://www.oig.hhs.gov/fraud/exclusions.asp. The Contractor should conduct a search of the website monthly to capture exclusions and reinstatements that have occurred since the last search and any exclusion

information discovered should be immediately reported to SCDHHS. Any individual or entity that employs or contracts with an excluded provider cannot claim reimbursement from Medicaid for any items or services furnished, authorized, or prescribed by the excluded provider. This prohibition applies even when the Medicaid payment itself is made to another provider who is not excluded; for example, a pharmacy that fills a prescription written by an excluded doctor for a MHN beneficiary cannot claim reimbursement from Medicaid for that prescription. Civil monetary penalties may be imposed against providers who employ or enter into contracts with excluded individuals or entities to provide items or services to MHN beneficiaries. See Section 1128A (a) (6) of the Social Security Act and 42 CFR 1003.102(a) (2).

12.6 Marketing

SCDHHS, and/or its designee shall have the right to approve, disapprove or require modification of all marketing plans, materials, and activities, and member handbook materials developed by the Contractor pursuant to this Contract. See Section §7 of this Contract and the **MHN Policy and Procedure Guide** for guidance.

12.7 Grievances/Appeals

SCDHHS shall have the right to approve, disapprove or require modification of all grievance procedures submitted with this Contract. SCDHHS requires the Contractor to meet and/or exceed the Medicaid MHN Program grievance standards as outlined in §9 of this Contract.

12.8 Training

SCDHHS will conduct provider training and workshops on Medicaid MHN Program policies and procedures as deemed appropriate for MHN Contractors.

12.9 Federal Fund Restrictions

The Contractor is responsible for accessing the OIG electronic data base and identifying, on a regular basis, information regarding individuals prohibited from receiving Federal funds.

13 TERMS AND CONDITIONS

The Contractor agrees to comply with all state and federal laws, regulations, and policies as they exist currently or as later amended that are or may be applicable to this Contract, including those not specifically mentioned in this section. Any provision of this Contract which is in conflict with Federal statutes, regulations, or CMS policy guidance is hereby amended to conform to the provisions of those laws, regulations, and Federal policies. Such amendment of the Contract will be

effective on the effective date of the statutes, regulations, or policy statements necessitating amendment, and will be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties. The Contractor may request SCDHHS to make policy determinations required for proper performance of the services under this Contract. The Contractor shall be entitled to rely upon and act in accordance with such policy determinations when such determinations are made in writing and signed by the Director of SCDHHS.

13.1 Applicable Laws and Regulations

The Contractor agrees to comply with all applicable federal and state laws and regulations including Constitutional provisions regarding due process and equal protection under the laws including but not limited to:

13.1.1 Title 42 Code of Federal Regulations (CFR) Chapter IV, Subchapter C (Medical Assistance Programs);

13.1.2 S.C. Code Ann. §38-33-10 et. seq. (Supp. 2000, as amended) and 25 S.C. Code Ann. Regs. §69-22 (Supp. 2000, as amended);

13.1.3 All applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 as amended (42 U.S.C. §7401, et seq.) and 20 USC §6082(2) of the Pro-Children Act of 1994, as amended (P.L. 103-227);

13.1.4 Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d et seq.) and regulations issued pursuant thereto, 45 CFR part 80; which provide that the Provider must take adequate steps to ensure that persons with limited English skills receive free of charge the language assistance necessary to afford them meaningful and equal access to the benefits and services provided under this agreement;

13.1.5 Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e) in regard to employees or applicants for employment;

13.1.6 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, which prohibits discrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance, and regulations issued pursuant thereto, 45 CFR Part 84;

13.1.7 The Age Discrimination Act of 1975, as amended, 42 U.S.C §6101 et seq., which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance;

13.1.8 The Omnibus Budget Reconciliation Act of 1981, as amended, P.L. 97-35, which prohibits discrimination on the basis of sex and religion in programs and activities receiving or benefiting from federal financial assistance;

13.1.9 The Balanced Budget Act of 1997, as amended, P.L. 105-33 and the Balanced Budget Refinement Act of 1999, as amended, H.R. 3426;

13.1.10 The Americans with Disabilities Act, as amended, 42 U.S.C. §12101 et seq., and regulations issued pursuant thereto, 28 CFR Parts 35, 36;

13.1.11 Sections 1128 and 1156 of the Social Security Act, as amended, relating to exclusion of Contractors for fraudulent or abusive activities involving the Medicare and/or Medicaid Program;

13.1.12 The Drug Free Workplace Acts, S.C. Code Ann. §44-107-10 et seq. (Supp. 2000, as amended), and the Federal Drug Free Workplace Act of 1988 as set forth in 45 CFR Part 82, (2008, as amended);

13.1.13 Debarment/Suspension, as contained in 2 CFR Part 376 (2009, as amended) and

13.1.14 Title IX of the Education Amendments of 1972 regarding education programs and activities;

13.2 Termination

SCDHHS or its designee will give the Contractor written notice that the Contractor has failed to perform its contractual undertakings and may, at SCDHHS' discretion, give the Contractor a specific time period in which to correct the deficiencies, unless other provisions in this section demand otherwise, before an actual notice of termination is issued. If SCDHHS determines that the Contractor has satisfactorily implemented corrective action, a notice of termination will not be issued. If SCDHHS determines that the Contractor has not satisfactorily corrected the problem(s), a notice of termination will be issued. SCDHHS will provide the Contractor with a written Notice of Intent to Terminate the contract between SCDHHS and the Contractor. The Notice of Intent to Terminate will include the date, time and location of a fair hearing before the SCDHHS Division of Appeals and Hearings. In the event of such termination, it is agreed that neither party shall be relieved from any financial obligations each may owe to the other. SCDHHS or its designee will assume responsibility for informing all affected members of the reasons for their termination from the Contractor. Members shall be allowed to disenroll immediately without cause.

13.2.1 Termination Under Mutual Agreement

Under mutual agreement, SCDHHS and the Contractor may terminate this Contract for any reason if it is in the best interest of SCDHHS and the Contractor. Both parties will sign a notice of termination which shall include, the date of termination, conditions of termination, and extent to which performance of work under this Contract is terminated.

13.2.2 Termination by SCDHHS for Breach

In the event that SCDHHS determines that the Contractor, or any of the Contractor's subcontractors fails to perform its contracted duties and responsibilities in a timely and proper manner, or if the Contractor shall violate any of the terms of this Contract, SCDHHS may terminate this Contract upon thirty (30) calendar days notice to the Contractor. Such notice will specify the manner in which the Contractor or its subcontractor(s) has failed to perform its contractual responsibilities. If SCDHHS determines that the Contractor and/or its subcontractor(s) have satisfactorily implemented corrective action within the thirty (30) calendar day notice period, the notice of termination may be withdrawn at the discretion of SCDHHS.

SCDHHS may terminate this Contract immediately if it is determined that actions by the Contractor or its subcontractor(s) pose a serious threat to the health of Medicaid MHN Program members enrolled in the Contractor's plan.

The Contractor will be paid for any outstanding monies due less any assessed damages. If damages exceed monies due, collection can be made from the Contractor's Fidelity Bond, Errors and Omissions Insurance, or any insurance policy or policies required under this Contract. The rights and remedies of the SCDHHS provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

13.2.3 Termination for Unavailability of Funds

In the event that federal and/or state funds to finance this Contract become unavailable after the effective date of this Contract, or prior to the anticipated contract expiration date, SCDHHS may terminate the Contract without penalty. This notification will be made in writing. Availability of funds shall be determined solely by SCDHHS.

13.2.4 Termination for Contractor Insolvency, Bankruptcy, Instability of Funds

The Contractor's insolvency or the filing of a petition in bankruptcy by or against the Contractor shall constitute grounds for termination for cause. If the SCDHHS determines the Contractor has become financially unstable, SCDHHS will immediately terminate this Contract upon written notice to the Contractor effective the close of business on the date specified.

13.2.5 Termination for Convenience

SCDHHS may terminate this Contract for convenience and without cause upon thirty (30) calendar days written notice. Said termination shall not be a breach of contract by SCDHHS and SCDHHS shall not be responsible to the Contractor or any other party for any costs, expenses, or damages occasioned by said termination, i.e., without penalty.

13.2.6 Termination by the Contractor

The Contractor shall give SCDHHS written notice of intent to terminate this Contract ninety (90) calendar days prior to the Contractor's intended last date of operation. Such written notice may be either hand-delivered to SCDHHS or may be mailed by certified mail, return receipt requested. The ninety (90) calendar days written notice shall specify the last date of operation, such date being at least ninety (90) calendar days after the date when SCDHHS receives the notice of termination. The Contractor shall comply with all terms and conditions stipulated in this Contract during the termination period. The Contractor may only terminate this contract on the last calendar day of the month of termination.

13.2.7 Termination for Noncompliance with the Drug Free Workplace Act

In accordance with S.C. Code Ann §44-107-60 (Supp. 2000, as amended), this Contract is subject to immediate termination, suspension of payment, or both if the Contractor fails to comply with the terms of the Drug Free Workplace Act.

13.2.8 Termination for Cause

The Contractor is subject to termination, unless the Contractor can demonstrate changes of ownership or control, when:

13.2.8.1 A person with a direct or indirect ownership interest in the Contractor:

13.2.8.1.1 Has been convicted of a criminal offense under Sections 1128 (a), 1128 (b)(1), (2), or (3) of the Social Security Act, in accordance with §1002.203 of 42 CFR.

13.2.8.1.2 Has had civil monetary penalties or assessments imposed under Section 1128A of the Act; or

13.2.8.1.3 Has been excluded from participation in Medicare or any State health care program; and

13.2.8.1.4 Has a direct or indirect ownership interest or any combination therefore of 5% or more, is an officer if the Contractor is organized as a corporation or partner of the contractor if it is organized as a partnership; is an agent or is a managing employee.

13.2.8.2 The Contractor has directly or indirectly a substantial contractual relationship with an excluded individual or entity. "Substantial contractual relationship" is defined as any direct or indirect business transactions that amount in a single fiscal year to more than $25,000 or 5% of the MHN's total operating expenses, whichever is less.

13.2.9 Termination Procedures

The party initiating the termination shall render written notice of termination to the other party by certified mail, return receipt requested, or in person with proof of delivery. The notice of termination shall specify the provision of this Contract giving the right to terminate; the circumstances giving rise to termination; and the date on which such termination shall become effective. When applicable, SCDHHS shall proceed with termination in accordance with §13.2 and §13.5.10 of this Contract.

Subject to the provisions stated herein, once the notice of termination has been submitted to SCDHHS, the Contractor shall:

13.2.9.1 Continue to provide services under the Contract, until the termination effective date;

13.2.9.2 Immediately terminate all marketing procedures and subcontracts related to marketing;

13.2.9.3 Within ten (10) days of the Contractor's written notification to SCDHHS of its intent to terminate its contract, submit a termination plan to SCDHHS for review and approval. The Contractor shall make revisions to the plan as necessary or as required by

SCDHHS and will resubmit the plan to SCDHHS for approval after each revision. Failure to submit a termination plan within ten (10) business days of written notification to SCDHHS of termination or to timely resubmit the plan after revisions may, in SCDHHS' discretion; result in a delay of the Contractor's planned termination date. Failure to submit a termination plan in the time specified in this provision shall result in a withhold of 25% of the Contractor's monthly capitation payment. These funds will be withheld until SCDHHS receives the termination plan.

13.2.9.4 Assist SCDHHS with grievances and appeals for dates of service prior to the termination date.

13.2.9.5 Arrange for the orderly transfer of patient care and patient records to those providers who will assume members' care. For those members in a course of treatment for which a change of providers could be harmful, the Contractor must continue to provide services until that treatment is concluded or appropriate transfer of care can be arranged.

13.2.9.6 Notify all members in writing about the contract Termination and the process by which members will continue to receive medical care at least sixty (60) calendar days in advance of the effective date of termination. The Contractor will be responsible for all expenses associated with member notification. SCDHHS must approve all member notification materials in advance of distribution. Such notice must include a description of alternatives available for obtaining services after Contract termination.

13.2.9.7 Notify all of its providers in writing about the contract termination at least sixty (60) calendar days in advance of the effective date of termination. The Contractor will be responsible for all expenses associated with provider notification. SCDHHS must approve all provider notification materials in advance of distribution.

13.2.9.8 File all reports concerning the Contractor's operations during the term of the Contract in the manner described in this Contract

13.2.9.9 Take all actions necessary to ensure the efficient and orderly transition of participants from coverage under this Contract to coverage under any new arrangement authorized by SCDHHS.

13.2.9.10 To ensure fulfillment of its obligations before and after termination, maintain the financial requirements, fidelity bonds and insurance set forth in this Contract until SCDHHS provides the Contractor written notice that all obligations of this Contract have been met.

13.2.9.11 Submit reports to SCDHHS every thirty (30) calendar days detailing the Contractor's progress in completing its obligations under this Contract after the termination date. The Contractor, upon completion of these obligations, shall submit a final report to SCDHHS describing how the Contractor has completed its obligations. SCDHHS shall, within twenty (20) calendar days of receipt of this report, advise in writing whether it agrees that the Contractor has met its obligations. If SCDHHS does not agree, then the Contractor shall complete the necessary tasks and submit a revised final report. This process shall continue until SCDHHS approves the final report.

Take whatever other actions are required by SCDHHS to complete this transition.

13.2.9.12 Be responsible for all financial costs associated with its termination, including, but not limited to costs associated with changes to the enrollment broker's website, computer system, mailings and telephonic communications by the enrollment broker to the Contractor's members regarding their choice period after the termination effective date.

13.2.9.13 If applicable, assign to SCDHHS in the manner and extent directed by SCDHHS all the rights, title and interest of the Contractor for the performance of the subcontracts to be determined as needed in which case SCDHHS shall have the right, in its discretion, to resolve or pay any of the claims arising out of the termination of such agreements and subcontracts. The Contractor shall supply all information necessary for the reimbursement of any outstanding Medicaid claims.

13.2.9.14 Complete the performance of such part of the Contract which shall have not been terminated under the notice of termination.

13.2.9.15 Take such action as may be necessary, or as SCDHHS may direct, for the protection of property related to this Contract which is in possession of the Contractor in which SCDHHS has or may acquire an interest.

13.2.9.16 In the event the Contract is terminated by SCDHHS, continue to serve or arrange for provision of services to the members of the Contractor until the effective date of termination. During this transition period, SCDHHS shall continue to pay the applicable capitation rate(s). Members shall be given written notice of the State's intent to terminate the contract and shall be allowed to disenroll immediately without cause

13.2.9.17 Provide all necessary assistance to SCDHHS in transitioning members out of the Contractor's plan to the extent specified in the notice of termination. Such assistance shall include, but not be limited to, the forwarding of all medical or financial records related to the Contractor's activities undertaken pursuant to this Contract; facilitation and scheduling of medically necessary appointments for care and services; and identification of chronically ill, high risk, hospitalized, and pregnant members in their last four (4) weeks of pregnancy.

The transitioning of records, whether medical or financial, related to the Contractor's activities undertaken pursuant to this Contract shall be in a form usable by SCDHHS or any party acting on behalf of SCDHHS and shall be provided at no expense to SCDHHS or another Contractor acting on behalf of SCDHHS.

13.2.9.18 Promptly supply all information necessary to SCDHHS or its designee for reimbursement of any outstanding claims at the time of termination.

Any payments due under the terms of this Contract may be withheld until SCDHHS receives from the Contractor all written and properly executed documents and the Contractor complies with all requests of SCDHHS.

13.2.9.19 Once SCDHHS receives the notice of termination, SCDHHS shall:

13.2.9.19.1 Stop auto-assignment of members to the terminating plan as of the date written notification of termination is received by SCDHHS.

13.2.9.19.2 Review, revise and approve the Contractor's termination plan and final report.

13.2.9.19.3 Review, revise and approve all correspondence to the Contractor's members and providers prior to distribution.

13.2.9.19.4 Cease all new member enrollments in the Contractor's plan at such time as determined by SCDHHS. This decision shall be at the sole discretion of SCDHHS.

Any of the above-stated requirements may be waived or altered upon written request by the Contractor and written approval by SCDHHS.

13.2.10 Effect of Termination on Business Associate's HIPAA Privacy Requirements

13.2.10.1 Except as provided in §13.2.11.2 below, upon termination of this Contract, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

13.2.10.2 In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon a mutual determination that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Contract to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

13.3 Deliverables

The Contractor shall submit all deliverables or reports required by this Contract and detailed in the **MHN Policy and Procedure Guide**, **Index of Required Reports and Forms**, at the frequency established by SCDHHS.

Deliverables	**Date Agreed Upon**
Daily Reports	Within two (2) business days.
Weekly Reports	Wednesday of the following week.
Monthly Reports	15th of the following month.
Quarterly Reports	30th of the following month.
Annual Reports	Ninety (90) calendar days after the end of the year.
On Request/Additional Reports	Within three (3) business days from the date of request unless otherwise specified by SCDHHS.

13.4 Use of Data

SCDHHS shall have unlimited rights to use, disclose, or duplicate, for any purpose, all information and data developed, derived, documented, or furnished by the Contractor resulting from this Contract.

13.5 Sanctions

If SCDHHS determines that the Contractor has violated any provision of this Contract, or the applicable statutes or rules governing Medicaid prepaid health plans, the SCDHHS may impose, against the Contractor, sanctions. SCDHHS shall notify the Contractor and CMS in writing of its intent to impose sanctions and explain the Contractor's due process rights. Sanctions shall be in accordance with §1932 of the Social Security Act (42 USC 1396u-2) and 42 CFR §§438.700-730 (2009, as amended) and may include any of the following sanctions:

13.5.1 Suspension of the Contractor's acceptance of applications for Medicaid enrollment;

13.5.2 Suspension or revocation of payments to the Contractor for Medicaid beneficiaries/eligibles enrolled during the sanction period, including default of the enrollment of Medicaid members. This violation may result in recoupment of the per member per month payment;

13.5.3 Suspension of all marketing activities permitted under this Contract;

13.5.4 Imposition of a fine of up to Ten Thousand Dollars ($10,000.00) for each marketing/enrollment violation, in connection with any one audit or investigation;

13.5.5 Termination pursuant to §13.2.2 of this Contract;

13.5.6 Non-renewal of the Contract pursuant to §13.6 of this Contract;

13.5.7 Appointment of temporary management in accordance with §1932(e)(2)(B) of SSA (42 U.S.C. 1396u-2) (2001, as amended) and 42 CFR §438.702. If the State finds that the MHN has repeatedly failed to meet substantive requirements in §1903(m) or §1932 of the Social Security Act 42 USC 1396u-2, the State must impose temporary management and grant members the right to terminate enrollment without cause, notifying the affected members of their right to terminate enrollment.

13.5.8 Civil money penalties in accordance with §1932 of the Social Security Act 42 USC 1396u-2.

13.5.9 Permit individuals enrolled in the Contractor's plan to be disenrolled without cause. SCDHHS may suspend or default all enrollment of Medicaid beneficiaries after the date the Secretary or SCDHHS notifies the Contractor of an occurrence under §1903(m) or section 1932(e) of the Social Security Act;

13.5.10 Termination of the contract if the Contractor has failed to meet the requirements of section 1903(m), 1905(t)(3) or 1932(e) of the Social Security Act and offering the Contractor's Medicaid members an opportunity to enroll with other Contractors to allow members to receive medical assistance under the State Plan. SCDHHS shall provide the Contractor a hearing before the SCDHHS Division of Appeals and Hearings before termination occurs. SCDHHS will notify the Medicaid members enrolled in the Contractor's plan of the hearing and allow the Medicaid eligibles to disenroll, if they choose, without cause.

13.5.11 Imposition of a fine of up to Twenty-five Thousand Dollars ($25,000) for each occurrence of the Contractor's failure to substantially provide medically necessary items and services that are required to be provided to a member covered under the Contract;

13.5.12 Imposition of a fine of up to Fifteen Thousand Dollars ($15,000) per individual not enrolled and up to a total of One Hundred Thousand Dollars ($100,000) per each occurrence, when the Contractor acts to discriminate among members on the basis of their health status or their requirements for health care services. Such discrimination includes, but is not limited to, expulsion or refusal to re-enroll an individual, except as permitted by Title XIX, or engaging in any practice that would reasonably be expected to

have the effect of denying or discouraging enrollment with the entity by eligible individuals whose medical condition or history indicates a need for substantial future medical services.

13.5.13 Imposition of a fine as high as double the excess amount charged to the Medicaid members by the Contractor for premiums or charges in excess of the premiums or charges permitted under Title XIX;

13.5.14 Imposition of sanctions as outlined in the **MHN Policy and Procedure Guide** if the Contractor fails to comply with the Physician Incentive Plan requirements; or;

13.5.15 Imposition of sanctions as outlined above if the Contractor misrepresents or falsifies information that it furnishes to CMS, to the State or to a member, potential member or health care provider. Unless the duration of a sanction is specified, a sanction will remain in effect until SCDHHS is satisfied that the basis for imposing the sanction has been corrected. SCDHHS will notify CMS when a sanction has been lifted.

13.6 Non-Renewal

This Contract shall be renewed only upon mutual consent of the parties. Either party may decline to renew the Contract for any reason. The parties expressly agree there is no property right in this Contract.

13.7 Plan of Correction Required (Contract Non-Compliance)

The Contractor and its subcontractors shall comply with all requirements of this Contract. In the event SCDHHS or its designee finds that the Contractor and/or its subcontractors failed to comply with any requirements of this Contract, the Contractor shall be required to submit a Plan of Correction to SCDHHS outlining the steps it will take to correct any deficiencies and/or non-compliance issues identified by SCDHHS in the Notice of Corrective Action. SCDHHS shall have final approval of the Contractor's Plan of Correction.

The Contractor's Plan of Correction shall be submitted to SCDHHS within the time frame specified in the Notice of Corrective Action. The Contractor and/or its subcontractor(s) shall implement the corrective actions as approved by SCDHHS and shall be in compliance with the Contract requirements noted within the time frame specified in the Notice of Corrective Action. The Contractor and/or its subcontractors shall be available and cooperate with SCDHHS and/or its designee as needed in implementing the approved corrective actions.

Failure of the Contractor and/or its subcontractor(s) to implement and follow the Plan of Correction as approved by SCDHHS shall subject the Contractor to the actions, set forth in §§13.2, 13.3 and 13.5 including all subsections of this Contract.

13.8 Inspection of Records

The Contractor shall make all program and financial records and service delivery sites open to the USHHS, SCDHHS, GAO, the State Auditor's Office, and the Office of the Attorney General, the Comptroller General, or their designee. HHS, SCDHHS, GAO, the State Auditor's Office, the Office of the Attorney General, the Comptroller General and/or their designees shall have the right to examine and make copies, excerpts or transcripts from all records, contact and conduct private interviews with Contractor clients and employees, and do on-site reviews of all matters relating to service delivery as specified by this Contract.

13.9 Non-Waiver of Breach

The failure of SCDHHS at any time to require performance by the Contractor of any provision of this Contract, or the continued payment of the Contractor by SCDHHS, shall in no way affect the right of SCDHHS to enforce any provision of this Contract; nor shall the waiver of any breach of any provision thereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself. No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Contract shall be waived except by the written agreement of the parties and approval of CMS, if applicable.

Waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

13.10 Non-Assignability

No assignment or transfer of this Contract or of any rights hereunder by the Contractor shall be valid without the prior written consent of SCDHHS.

13.11 Legal Services

No attorney-at-law shall be engaged through use of any funds provided by SCDHHS pursuant to the terms of this Contract. Further, with the exception of attorney's fees awarded in accordance with S.C. Code Ann. §15-77-300 (2000, as amended), SCDHHS shall under no circumstances become obligated to pay an attorney's fee or the costs of legal action to the Contractor. This covenant and condition shall apply to any and all suits, legal actions, and judicial appeals of whatever kind or nature to which the Contractor is a party.

13.12 Attorney's Fees

In the event that SCDHHS shall bring suit or action to compel performance of or to recover for any breach of any stipulation, covenant, or condition of this Contract, the Contractor shall and will pay to SCDHHS such attorney's fees as the court may adjudge reasonable in addition to the amount of judgment and costs.

13.13 Independent Contractor

It is expressly agreed that the Contractor and any subcontractors and agents, officers, and employees of the Contractor or any subcontractors in the performance of this Contract shall act in an independent capacity and not as officers and employees of SCDHHS or the State of South Carolina. It is further expressly agreed that this Contract shall not be construed as a partnership or joint venture between the Contractor or any subcontractor and SCDHHS and the State of South Carolina.

13.14 Governing Law and Place of Suit

It is mutually understood and agreed that this Contract shall be governed by the laws of the State of South Carolina both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract or any provision thereof shall be instituted only in the courts of the State of South Carolina.

13.15 Severability

If any provision of this Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both SCDHHS and Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed. In addition, if the laws or regulations governing this Contract should be amended or judicially interpreted as to render the fulfillment of the Contract impossible or economically infeasible, both SCDHHS and the Contractor will be discharged from further obligations created under the terms of the Contract. To this end, the terms and conditions defined in this Contract can be declared severable.

13. 16 Copyrights

If any copyrightable material is developed in the course of or under this Contract, SCDHHS shall have a royalty free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use the work for SCDHHS purposes.

13.17 Subsequent Conditions

The Contractor shall comply with all requirements of this Contract and SCDHHS shall have no obligation to enroll any MHN Program Members into the Contractor's plan until such time as all of said requirements have been met.

13.18 Incorporation of Schedules/Appendices

All schedules/appendices referred to in this Contract are attached hereto, are expressly made a part hereof, and are incorporated as if fully set forth herein.

13.19 Titles

All titles used herein are for the purpose of clarification and shall not be construed to infer a contractual construction of language.

13.20 Safeguarding Information

The Contractor shall establish written safeguards which restrict the use and disclosure of information concerning members or potential members to purposes directly connected with the performance of this Contract. The Contractor's written safeguards shall:

13. 20.1 Be at least as restrictive as those imposed by 42 CFR Part 431, Subpart F (2009, as amended) and 27 S.C. Code Ann. Regs. §126-170 et seq. (Supp. 2009, as amended);

13.20.2 State that in the event of a conflict between the Contractor's written safe guards standards and any other state or federal confidentiality statute or regulation, the Contract shall apply the stricter standards.

13. 20.3 Require the written consent of the member or potential member before disclosure of information about him or her, except in those instances where state or federal statutes or regulations require disclosure or allow disclosure with the consent of the member or potential member;

13. 20.4 Only allow the release of statistical or aggregate data that has been de-identified in accordance with federal regulations at 45 CFR §164.514 and which cannot be traced back to particular individuals; and

13. 20.5 Specify appropriate personnel actions to sanction violators.

13.21 Release of Records

The Contractor shall release medical records of members, as may be authorized by the members as may be directed by authorized personnel of SCDHHS, appropriate agencies of the State of South Carolina, or the United States Government. Release of medical records shall be consistent with the provisions of confidentiality as expressed in this Contract.

13. 22 Fraudulent Activity

The Contractor shall report to SCDHHS any cases of suspected Medicaid fraud or abuse by its members, employees, or subcontractors. The Contractor shall report such suspected fraud or abuse in writing as soon as practicable after discovering suspected incidents. The Contractor shall report the following fraud and abuse information to SCDHHS:

(a) The number of complaints of fraud and abuse made to SCDHHS that warrant preliminary investigation.

(b) For each case of suspected provider fraud and abuse that warrants a full investigation:
(1) the provider's name and number
(2) the source of the complaint
(3) the type of provider
(4) the nature of the complaint
(5) the approximate range of dollars involved
(6) the legal and administrative disposition of the case

The Contractor shall adhere to the policy and process contained in the **MHN Policy and Procedure Guide** for referral of cases and coordination with the SCDHHS Division of Program Integrity for fraud and abuse complaints regarding members and providers.

13. 23 Integration

This Contract shall be construed to be the complete integration of all understandings between the parties hereto. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendment executed and approved by the parties.

13. 24 Hold Harmless

The Contractor shall indemnify, defend, protect, and hold harmless SCDHHS and any of its officers, agents, and employees from:

13. 24.1 Any claims for damages or losses arising from services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies for the Contractor in connection with the performance of this Contract;

13. 24.2 Any claims for damages or losses to any person or firm injured or damaged by erroneous or negligent acts, including disregard of State or Federal Medicaid regulations or legal statutes, by Contractor, its officers, employees, or subcontractors in the performance of this Contract;

13.24.3 Any claims for damages or losses resulting to any person or firm injured or damaged by Contractor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under this Contract in a manner not authorized by the Contract or by Federal or State regulations or statutes;

13.24.4 Any failure of the Contractor, its officers, employees, or subcontractors to observe the Federal or State laws,

including, but not limited to, labor laws and minimum wage laws;

13.24.5 Any claims for damages, losses, or costs associated with legal expenses, including, but not limited to, those incurred by or on behalf of SCDHHS in connection with the defense of claims for such injuries, losses, claims, or damages specified above;

13.24.6 Any injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses which may in any manner accrue against SCDHHS or its agents, officers or employees, through the intentional conduct, negligence or omission of the Contractor, its agents, officers, employees or subcontractors.

In the event that, due to circumstances not reasonably within the control of the Contractor or SCDHHS (i.e., a major disaster, epidemic, complete or substantial destruction of facilities, war, riot or civil insurrection), neither the Contractor, SCDHHS, or subcontractor(s), will have any liability or obligation on account of reasonable delay in the provision or the arrangement of covered services; provided, however, that so long as the Contractor's certificate of authority remains in full force and effect, the Contractor shall be liable for the covered services required to be provided or arranged for in accordance with this Contract.

13. 25 Hold Harmless as to the Medicaid MHN Program Members

In accordance with the requirements of S.C Code Ann. §38-33-130(b) (Supp. 2001, as amended), and as a condition of participation as a health care provider, the Contractor hereby agrees not to bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have recourse against, Medicaid MHN Program members of Contractor, or persons acting on their behalf, for health care services which are rendered to such members by the Contractor and its subcontractors, and which are covered benefits under the members evidence of coverage. This provision applies to all covered health care services furnished to the Medicaid MHN Program member for which the State does not pay the Contractor or the State or the Contractor does not pay the individual or health care provider that furnishes the services under a contractual, referred, or other arrangement during the time the member is enrolled in, or otherwise entitled to benefits promised by the Contractor. The Contractor further agrees that the Medicaid MHN program member shall not be held liable for payment for covered services furnished under a contract, referral, or other arrangement, to the extent that those payments are in excess of the amount that the member would owe if the MHN provided the service directly. The Contractor agrees that this provision is applicable in all circumstances including, but not limited to, non-payment by Contractor and insolvency of Contractor. The Contractor further agrees that this provision shall be construed to be for the benefit of Medicaid MHN Program members of Contractor, and that this provision supersedes any oral or written contrary agreement now existing or hereafter entered

into between the Contractor and such members, or persons acting on their behalf.

13. 26 Non-Discrimination

The Contractor agrees that no person, on the grounds of handicap, age, race, color, religion, sex, or national origin, shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor. The Contractor shall upon request show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notices of non-discrimination.

13. 27 Confidentiality of Information

The Contractor shall assure that all material and information, in particular information relating to members or potential members, which is provided to or obtained by or through the Contractor's performance under this Contract, whether verbal, written, electronic file, or otherwise, shall be reported as confidential information to the extent confidential treatment is provided under state and federal laws. The Contractor shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations and securement of its rights under this Contract.

All information as to personal facts and circumstances concerning members or potential members obtained by the Contractor shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of SCDHHS or the member/potential member, provided that nothing stated herein shall prohibit the disclosure of information in summary, statistical, or other form which does not identify particular individuals. The use or disclosure of information concerning members/potential members shall be limited to purposes directly connected with the administration of this Contract.

13.28 Employment of Personnel

In all hiring or employment made possible by or resulting from this Contract, the Contractor agrees that (1) there shall be no discrimination against any employee or applicant for employment because of handicap, age, race, color, religion, sex, or national origin, and that (2) affirmative action shall be taken to ensure that applicants are employed and that employees are treated during employment without regard to their handicap, age, race, color, religion, sex, or national origin. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor further agrees to give public notice in conspicuous places available to employees and applicants for employment setting forth the provisions of this section. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to handicap, age, race, color, religion, sex, or national origin. All inquiries made to the Contractor

concerning employment shall be answered without regard to handicap, age, race, color, religion, sex, or national origin. All responses to inquiries made to the Contractor concerning employment made possible as a result of this Contract shall conform to federal, state, and local regulations.

13.29 Political Activity

None of the funds, materials, property, or services provided directly or indirectly under this Contract shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office, or otherwise in violation of the provisions of the "Hatch Act".

13.30 Force Majeure

The Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

SCDHHS shall not be liable for any excess cost to the Contractor for SCDHHS's failure to perform the duties required by this Contract if such failure arises out of causes beyond the control and without the result of fault or negligence on the part of SCDHHS. In all cases, the failure to perform must be beyond the control without the fault or negligence of SCDHHS.

13.31 Conflict of Interest

All State employees shall be subject to the provisions of S.C. Code Ann. §8-13-100 and §8-13-310, et seq. (Supp. 2000, as amended).

The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that, in the performance of the Contract, no person having any such known interests shall be employed.

13.32 Safety Precautions

SCDHHS and USHHS assume no responsibility with respect to accidents, illnesses, or claims arising out of any activity performed under this Contract. The Contractor shall take necessary steps to ensure or protect its clients, itself, and its personnel. The Contractor agrees to comply with

all applicable local, state, and federal occupational and safety acts, rules, and regulations.

13.33 Contractor's Appeal Rights

If any dispute shall arise under the terms of this Contract, the sole and exclusive remedy shall be the filing of a Notice of Appeal within thirty (30) calendar days of receipt of written notice of SCDHHS's action or decision which forms the basis of the appeal. Administrative appeals shall be in accordance with 27 S.C. Code Ann. Regs. §126-150, et seq., (1976, as amended), and the Administrative Procedures Act, S.C. Code Ann. §1-23-310, et seq., (1976, as amended). Judicial review of any final SCDHHS administrative decisions shall be in accordance with S.C. Code Ann. §1-23-380 (1976, as amended).

13.34 Loss of Federal Financial Participation (FFP)

The Contractor hereby agrees to be liable for any loss of FFP suffered by SCDHHS due to the Contractor's, or its subcontractors', failure to perform the services as required under this Contract. Payments provided for under this Contract will be denied for new enrollees when, and for so long as, payment for those enrollees is denied by CMS in accordance with the requirements in 42 CFR §438.730.

13.35 HIPAA Compliance

The Contractor shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the rules and regulations promulgated thereunder (45 CFR Parts 160, 162, and 164). The Contractor shall ensure compliance with all HIPAA requirements across all systems and services related to this Contract, including transaction, common identifier, and privacy and security standards, by the effective date of those rules and regulations.

SCDHHS acknowledges that, while the Contractor is a Business Associate under this contract, the Contractor also separately qualifies as a covered entity as defined in the Privacy Rule. Accordingly, the Contractor may use and disclose Protected Health Information for such purposes as are consistent with its status as a separate covered entity under the Privacy Rule.

13.36 National Provider Identifier

The HIPAA Standard Unique Health Identifier regulations (42 CFR Part 165 Subparts A & D) require that all covered entities (health plans, health care clearinghouses, and those health care providers who transmit any health information in electronic form in connection with a standard transaction) must use the identifier obtained from the National Plan and Provider Enumeration System (NPPES).

Pursuant to the HIPAA Standard Unique Health Identifier regulations (42 CFR Part 165 Subparts A & D), and if the provider is a covered health care provider as defined in 42 CFR §162.402, the provider agrees to disclose its National Provider Identifier (NPI) to SCDHHS once obtained from the NPPES. Provider also agrees to use the NPI it obtained from the NPPES, if applicable, to identify itself on all standard transactions that it conducts with SCDHHS.

13.37 HIPAA Business Associate

Individually identifiable health information is to be protected in accordance with the HIPAA as agreed upon in Appendix C.

13.38 Software Reporting Requirement

All reports submitted to SCDHHS by the Contractor must be in a format accessible and modifiable by the standard Microsoft Office Suite of products or in a format accepted and approved by SCDHHS.

13.39 Employee Education About False Claims Recovery

If the Provider receives annual Medicaid payments of at least Five Million Dollars ($5,000,000) the Provider must comply with Section 6032 of the Deficit Reduction Act (DRA) of 2005, Employee Education About False Claims Recovery.

IN WITNESS WHEREOF, SCDHHS and the Contractor, by their authorized agents, have executed this Contract as of the first day of April 2010.

OUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES "SCDHHS"	MHN PROVIDER
BY: _____	BY: _____
Emma Forkner Director	Authorized Signature
	_____
	Print Name
WITNESSES:	WITNESSES:
_____	_____
_____	_____

APPENDIX A

DEFINITIONS AND ACRONYMS

Action - A termination, suspension or reduction (which includes denial of a service based on Office of General Counsel interpretation of CFR 431) of Medicaid eligibility or covered services. It further means determinations by skilled nursing facilities and nursing facilities to transfer or discharge residents and adverse determinations made by a State with regard to the preadmission screening and annual resident review requirements of section 1919(e)(7) of the Act.

Beneficiary - A person determined eligible to receive services as provided for in the South Carolina State Plan for Medical Assistance (interchangeable with the term Recipient).

Care Coordination Services Organization (CSO) - Organization that provides administrative support to the Medical Homes Network and the participating primary care practices. The CSO shall serve as the designated agent for the Medical Homes Network

Care Coordination - Activities performed by the Network on behalf of the members to coordinate and monitor their treatment and improve the cost/benefit of services delivered.

Care Coordination Fee - The amount paid to the Contractor per member per month for each Medical Homes beneficiary who has chosen or has been assigned to the Contractor.

CFR - Code of Federal Regulations.

CMS - Centers for Medicare and Medicaid Services.

Cold Call Marketing - Any unsolicited personal contact by the PCCM with a potential member for the purpose of marketing.

Disease Management - Activities performed on behalf of the members to coordinate and monitor their treatment for specific identified chronic diseases and educate the member to maximize appropriate self-management.

Documented Cost Savings - Those cost savings verified by SCDHHS by using an independent actuary to establish the baseline and to conduct periodic reconciliation during the Contract period. The difference between the Medicaid Upper Payment Limit of the Medical Homes Network enrollees as defined/calculated in Appendix B of the Contract and the total amount of covered claim expenditures incurred by Medical Homes Network enrollees (including the prospective per member per month case management/care coordination fee payments) during the contract period.

Eligible Beneficiary - Individuals who have been deemed eligible for Medicaid and may be enrolled in the Medical Homes program.

Enrollee - A Medicaid beneficiary who is currently enrolled in an MCO, PIHP, PAHP, or PCCM in a given managed care program.

FFP (Federal Financial Participation) - Any funds, either title or grant, from the Federal Government.

GAO – Government Accountability Office.

Group Practice/Center - A Medicaid participating primary care provider structured as a group practice/center which (1) is a legal entity (e.g., corporation, partnership, etc.), (2) possesses a federal tax identification (employer) number, and (3) is designated as a group by means of a Medicaid Group Provider number.

HIPAA - Health Insurance Portability and Accountability Act of 1996.

Managed Care Organization - An entity that has, or is seeking to qualify for, a comprehensive risk contract that is—(1) A Federally qualified HMO that meets the advance directive requirements of subpart I of 42 CFR §489; or (2) Any public or private entity that meets the advance directives requirements and is determined to also meet the following conditions: (a) Makes the services it provides to its Medicaid members as accessible (in terms of timeliness, amount, duration, and scope) as those services are to other Medicaid recipients within the area service by the entity; and (b) Meets the solvency standards of 42 CFR §438.116. This includes any of the entity's employees, affiliated providers, agents, or contractors.

Managed Care Plan - The term "Managed Care Plan" is interchangeable with the terms "Contractor", "Plan", or "MCO".

Marketing - Any communication from a MHN to a Medicaid beneficiary who is not enrolled in that entity, that can reasonably be interpreted as intended to influence the beneficiary to enroll in that particular MHN's Medicaid product, or either to not enroll in, or to disenroll from, another Medicaid product.

Marketing Materials - Materials that are produced in any medium, by or on behalf of a PCCM and can reasonably be interpreted as intended to market to potential members.

Medical Homes Network - A group of physicians, who are enrolled as PCCM providers, any advisory boards, and the Care Coordination Services Organization that provides the infrastructure for the group which accepts the responsibility for providing medical homes for members and for managing members' care.

Medical Homes Program Policy - All policies and procedures required by this agreement and incorporated herein by reference are published in the Medical Homes Policy and Procedure Guide.

Member - A Medicaid beneficiary who chooses (or is assigned) to a Medical Homes Network primary care provider.

Member Disenrollment - The deletion of the individual from the monthly list of members furnished by the SCDHHS to the Contractor.

NPI - National Provider Identifier

Outcomes - Performance measures designed to evaluate the implementation and accomplishment of the MHN providers and the Contractor.

Ownership Interest - The possession of stock, equity in the capital, or any interest in the profits of the Contractor. For further definition see 42 CFR §455.101 (2004, as amended).

Patient Care Coordination - The manner or practice of providing, directing, and coordinating the health care and utilization of health care services of members with regard to those services as defined by Medical Homes Policy that must be authorized by the primary care provider. If not provided directly, necessary medical services must be arranged through the primary care provider.

Pharmacy Management - Activities designed to monitor and oversee the utilization of medications, prescribed and over-the-counter, by both the Member and the Provider, to improve the cost/benefit of the use of pharmaceuticals.

Protected Health Information - (PHI): This term shall have the same meaning as the term in the Health Insurance Portability and Accountability Act of 1996, 45 CFR §160.103

Policies - The general principles by which SCDHHS is guided in its management of the Title XIX program, as further defined by SCDHHS promulgations and by state and federal rules and regulations.

Potential Enrollee - A Medicaid beneficiary who is subject to mandatory enrollment or may voluntarily elect to enroll in a given managed care program, but is not yet a member of a specific primary care provider.

Preventive Services - Services rendered for the prevention of disease in adults and children as defined by Medical Homes Policy.

Primary Care - The ongoing responsibility for directly providing medical care (including diagnosis and/or treatment) to a member regardless of the presence or absence of disease. It includes health promotion, identification of individuals at risk, early detection of serious disease, management of acute emergencies, rendering continuous care to chronically ill patients, and referring the member to another provider when necessary.

Primary Care Case Management (PCCM) - A system under which a Primary Care Case Manager contracts with the State to furnish case management services (which include the location, coordination and monitoring of primary health care services) to Medicaid beneficiaries.

Primary Care Provider (PCP) - The participating physician, physician extender (PA, FNP, CNM), or group practice/center selected by or assigned to the member to manage, provide and coordinate all of the member's health care needs; to initiate and monitor referrals for specialized services when required; to contribute to the development and implementation of the care treatment plan, and participate in quality of care initiatives and reviews.

Program - The method of provision of Title XIX services to South Carolina beneficiaries as provided for in the South Carolina State Plan for Medical Assistance and SCDHHS regulations.

Provider Education - Information and training on, at a minimum, evidence-based medicine and Best Practice protocols delivered to the MHN providers.

Recipient - A person determined eligible to receive services as provided for in the South Carolina State Plan for Medical Assistance (interchangeable with the term Beneficiary).

Social Security Act - Title 42, United States Code, Chapter 7, as amended.

Social Services - Medical assistance, rehabilitation, and other services defined by Title XIX, USDHHS regulations, and SCDHHS regulations.

SCDHHS - South Carolina Department of Health and Human Services.

SCDHHS Appeal Regulations - Regulations promulgated in accordance with S.C. Code Ann. §44-6-90, S.C. Code Regs. 126-150 et seq. and S.C. Code Ann. §§1-23-310 et seq. (1976, as amended).

South Carolina State Plan for Medical Assistance - A comprehensive written commitment written by a Medicaid Agency, submitted under Section 1902(a), approved by the Secretary of USDHHS, which complies with 42 U.S.C.A. Section 1396a, and provides for the methodology of furnishing services to beneficiaries pursuant to Title XIX.

Title XIX - Title 42, United States Code, Chapter 7, subchapter XIX, as amended. (42 U.S.C.A. Section 1396 et seq.)

USDHHS - United States Department of Health and Human Services.

APPENDIX B

MEDICAL HOME NETWORK RATE

MHN Rate

Per Member Per Month Payment (PMPM) $10.00

APPENDIX C

HIPAA BUSINESS ASSOCIATE

APPENDIX C

HIPAA BUSINESS ASSOCIATE

A. Purpose

The South Carolina Department of Health and Human Services (Covered Entity) and Contractor (Business Associate) agree to the terms of this Appendix for the purpose of protecting the privacy of individually identifiable health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in performing the functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract between the parties.

B. Definitions (Other terms used but not defined shall have the same meaning as those terms in the HIPAA Privacy Rule.)

1. Business Associate means the same as “business associate” in 45 CFR §160.103.

2. Covered Entity means SCDHHS.

14 Designated Record Set means the same as “designated record set” in 45 CFR §164.501.

15 Individual means the same as "individual" in 45 CFR §160.103 and includes a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

16 Privacy Rule means the HIPAA Standards for Privacy of Individually Identifiable Health Information (45 CFR Part 160 and Part 164, Subparts A and E).

17 Protected Health Information (PHI) means the same as the term protected health information in 45 CFR §160.103, limited to information received by Agency from Covered Entity.

18 Required By Law means the same as "required by law" in 45 CFR §164.103, and other law applicable to the PHI disclosed pursuant to the Contract.

19 Secretary means the Secretary of the Department of Health and Human Services or designee.

20 Security Standards shall mean the Security Standards at 45 C.F.R. Part 160 and Part 164, as may be amended.

21 Electronic PHI shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. §160.103.

22 Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with

system operations in an information system or its current meaning under 45 C.F.R. §164.304.

C. Business Associate Provisions

Business Associate agrees to:

1. Not use or disclose PHI other than as permitted or required by the Contract or as required by law.

2. Use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for in the Contract.

3. Mitigate to the extent practicable, any harmful effect known to Business Associate if it uses/discloses PHI in violation of the Contract.

4. Immediately report to Covered Entity any breaches in privacy or security that compromise PHI. Security and/or privacy breaches should be reported to:

South Carolina Department of Health and Human Services
Office of General Counsel
Post Office Box 8206
Columbia, South Carolina 29202-8206
Phone: (803) 898-2795
Fax: (803) 255-8210

The Report should include a detailed description of the breach and any measures that have been taken by the Business Associate to mitigate the breach.

SCDHHS may impose a fine of $300 per day from the date that the Business Associate knew or should have known of any breach in privacy or security that compromises PHI to the date that SCDHHS becomes aware of the breach.

SCDHHS may impose a fine of up to $25,000 for any negligent breach in privacy or security that compromises PHI.

5. Ensure that any agent/subcontractor to whom it provides PHI agrees to the same restrictions/conditions that apply to the Business Associate in this Appendix.

6. If the Business Associate has PHI in a designated record set: (1) provide access at Covered Entity's request to PHI to Covered Entity or, as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR §164.524; (2) make any amendment(s) to PHI in a designated record set that Covered Entity directs or agrees to pursuant to 45 CFR §164.526.

7. Make its internal practices, books, records, and policies/procedures relating to the use/disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity, to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

8. Document Business Associate disclosures of PHI, other than disclosures back to Covered Entity, and related information as would be required for Covered Entity to respond to a request for an accounting of PHI disclosures in accordance with 45 CFR §164.528.

9. Provide to Covered Entity or an individual, as designated by Covered Entity, information collected in accordance with Section C.8 of this Appendix, to permit Covered Entity to respond to a request for an accounting of PHI disclosures in accordance with 45 CFR §164.528.

10. Encrypt all PHI stored on portable devices. Portable devices include all transportable devices that perform computing or data storage, manipulation or transmission including, but not limited to, diskettes, CDs, DVDs, USB flash drives, laptops, PDAs, Blackberrys, cell phones, portable audio/video devices (such as iPods, and MP3 and MP4 players), and personal organizers.

11. Otherwise, not re-disclose Covered Entity PHI except as permitted by applicable law.

12. Be liable to Covered Entity for any damages, penalties and/or fines assessed against Covered Entity should Covered Entity be found in violation of the HIPAA Privacy Rule due to Business Associate's material breach of this section. Covered Entity is authorized to recoup any and all such damages, penalties and/or fines assessed against Covered Entity by means of withholding and/or offsetting such damages, penalties, and/or fines against any and all sums of money for which Covered Entity may be obligated to the Business Associate under any previous contract and/or this or future contracts. In the event there is no previous contractual relationship between the Business Associate and Covered Entity, the amount to cover such damages, penalties and/or fines shall be due from Business Associate immediately upon notice.

D. <u>Permitted Uses and Disclosures by Business Associate</u>

1. Except as limited in the Contract, Business Associate may use PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract, provided that such use would not violate the Privacy Rule if done by Covered Entity or Covered Entity's privacy practices. Unless otherwise permitted in this Appendix, in the

Contract or required by law, Business Associate may not disclose/re-disclose PHI except to Covered Entity.

2. Except as limited in this Appendix, Business Associate may use/disclose PHI for internal management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, as needed for Business Associate to provide its services under the Contract.

3. Except as limited in this Appendix, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 42 CFR §164.504(e)(2)(i)(B).

4. Business Associate may use PHI to report violations to appropriate Federal or State authorities as permitted by §164.502(j)(1).

E. Covered Entity Provisions

Covered Entity agrees to:

1. Notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

1. Notify Business Associate of any changes in, or revocation of, permission by individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

3. Notify Business Associate of any restriction to the use/disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use/disclosure of PHI.

4. Not request Business Associate to use/disclose PHI in any manner not permitted under the Privacy Rule if done by Covered Entity.

F. Term and Termination

1. The terms of this Appendix shall be effective immediately upon signing of the Contract and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is returned to Covered Entity, or, if it is infeasible to return PHI, protections are extended to such PHI in accordance with the termination provisions in this Section.

2. Upon its knowledge of a material breach by Business Associate, Covered Entity shall either:

a. Allow Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; or
b. Immediately terminate the Contract if Business Associate has breached a material term of this Appendix and cure is not possible; or
c. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

3. Effect of Termination

a. Except as provided in paragraph (2) below, upon termination of the Contract, Business Associate shall return all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision also applies to PHI in the possession of Business Associate's subcontractors or agents. Business Associate shall retain no copies of the PHI.
b. If Business Associate determines that returning the PHI is infeasible, Business Associate shall notify Covered Entity of the conditions that make return infeasible. Upon mutual agreement of the parties that return of PHI is infeasible, Business Associate shall extend the protections of this Appendix to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return infeasible, for so long as Business Associate maintains such PHI.

G. Security Compliance

This Section shall be effective on the applicable enforcement date of the Security Standards. Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity, and will require that its agents and subcontractors to whom it provides such information do the same. Further, Business Associate agrees to comply with Covered Entity's security policies and procedures. Business Associate also agrees to provide Covered Entity with access to and information concerning Business Associate's security and confidentiality policies, processes, and practices that affect electronic PHI provided to or created by Business Associate pursuant to the Agreement upon reasonable request of the Covered Entity. Covered Entity shall determine if Business Associate's security and confidentiality practices, policies, and processes comply with HIPAA and all regulations promulgated under HIPAA. Additionally, Business Associate will immediately report to Covered Entity any Security Incident of which it becomes aware.

H. Miscellaneous

1. A reference in this Appendix to a section in the Privacy Rule means the section as in effect or as amended.

2. The Parties agree to amend this Appendix as necessary to comply with HIPAA and other applicable law.

3. The respective rights and obligations of Business Associate under Section F. 3. shall survive the termination of the Contract.

4. Any ambiguity in this Appendix shall be resolved to permit Covered Entity to comply with the Privacy Rule.

APPENDIX D

MEDICALLY COMPLEX CHILDREN'S WAIVER PROGRAM ENHANCED RATE

«Provider_Name»

Enhanced Rate

April 1, 2010 – March 31, 2011

Enhanced Primary Case Management Per Member Per Month

Service	(a) Average Units PMPM	(b) FFS Fee Per Unit	(c) = (a) x (b) Cost PMPM
Telephone Consult	4.00	11.25	$ 45.00
Care Plan Oversight (Physician)	1.5	80.48	$120.72
Care Plan Oversight (Nurse)	1.00	40.24	$ 40.24
Team Medical Conference (30 minutes)	0.8333	30.00	$ 25.00
			$230.96